

EXHIBIT

34A

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12	By James A. Shimota, Esq.	12	of Exhibit 64 102
13	200 East Randolph Drive	13	
14	Chicago, Illinois 60601	14	(Mr. Shimota has retained the original exhibits)
15	(312)861-2336	15	
16	For the Defendant.	16	
17		17	
18	Also Present: Lily Olm, Interpreter	18	
19	Jodi Urbati, Videographer	19	
20		20	
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23		23	
24		24	

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<p style="text-align: right;">Page 5</p> <p style="text-align: center;">PROCEEDINGS</p> <p>1 VIDEOGRAPHER: Here begins videotape number 2 one in today's deposition of Juergen Hoesser in the 3 matter of Braun versus Rayovac Corporation in the 4 United States District Court for the District of 5 Massachusetts, Civil Action No. 03-CV-12428-WGY. 6 Today's date is May 11, 2005. The time, 7 9:17 a.m. The videographer today is Jodi Urbati 8 contracted by Legalink Boston. This deposition is 9 taking place at Dwyer & Collora, and was noticed by 10 James Shimota of Kirkland & Ellis. 11 Counsel, please voice identify yourselves 12 and state whom you represent. 13 MR. SHIMOTA: Jim Shimota, Kirkland & 14 Ellis, appearing on behalf of Defendant Rayovac 15 Corporation. 16 MR. PATTON: Bill Patton of Ropes & Gray 17 appearing on behalf of Braun. 18 VIDEOGRAPHER: Would all others present 19 please state their name for the record. 20 MS. WENDLANDT: Dalila Wendlandt, counsel 21 for Braun GmbH. 22 INTERPRETER: Lily Olm, the interpreter. 23 24</p>	<p style="text-align: right;">Page 7</p> <p>1 answers, correct? 2 A. Yes. 3 Q. And just to be clear, you must or you 4 should attempt to, when answering my questions, 5 provide an audible response as opposed to nodding 6 your head? 7 A. Okay, yes. 8 Q. And if at any point during the deposition 9 you do not understand a question, would you please 10 tell me? 11 A. Okay. 12 Q. If at any point during the deposition you 13 come to believe that a prior answer you had given 14 was either incomplete or inaccurate, would you tell 15 me that? 16 A. Okay. 17 Q. Is there any reason that you can think of 18 sitting here now that you are unable to answer my 19 questions truthfully and accurately today? 20 A. No. 21 Q. Would you describe for me -- let me see if 22 I can remember what the correct word would be -- 23 would you describe for me your education following 24 what would be school for children?</p>
<p style="text-align: right;">Page 6</p> <p>1 VIDEOGRAPHER: The court reporter today is 2 Michael O'Connor of Legalink Boston. Would the 3 reporter please swear in the witness. 4 5 JUERGEN HOESER 6 7 having been satisfactorily identified by the 8 production of his driver's license, and duly sworn 9 by the Notary Public, was examined and testified as 10 follows: 11 12 DIRECT EXAMINATION 13 BY MR. SHIMOTA: 14 Q. Would you please state your name for the 15 record, sir. 16 A. My name is Juergen Hoesser. 17 Q. Would you also please provide your address? 18 A. The address is in Germany. It's 19 Pfarrdriesch 9B in Neu Anspach 61267. 20 Q. Before we begin, I'd just like to go over a 21 few bits of background for purposes of the 22 deposition. You understand that over the course of 23 today and perhaps tomorrow I will ask you questions, 24 and you will be expected or you will give me</p>	<p style="text-align: right;">Page 8</p> <p>1 A. After the children's school, I did my 2 studying and I became a machine engineer. My 3 training was for an apprenticeship for toolmaker. 4 Q. Where did you do your apprenticeship for 5 tool making? 6 A. In Germany, with the company Sperry 7 Vickers. After the apprenticeship, I worked for a 8 half year as a mechanic in avionics. Then I went 9 back to school and I did my high school diploma 10 called abitur in Germany. This is high school. The 11 American high school would be equivalent to abitur 12 in Germany. 13 Q. Where did you study or where did you pursue 14 your high school studies? 15 A. I will give you the equivalence literally. 16 It's a professional high school, literal 17 translation. 18 Q. What was the name of the professional high 19 school? 20 A. Fachhochschule, Oberursel being the 21 location of the school. 22 Q. In what year did you perform your 23 apprenticeship for tool making? 24 A. From 1977 to 1980.</p>

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<p style="text-align: right;">Page 9</p> <p>1 Q. In your apprenticeship, did you focus on 2 the manufacture of any particular tools? 3 A. No. The apprenticeship was general in 4 character and it was geared to repair tools. 5 Q. What products did Sperry Vickers 6 manufacture? 7 INTERPRETER: I don't know the exact 8 translation. I will see with the witness whether my 9 interpretation of the tools is correct. He asked me 10 whether he should explain to me what it is. I know 11 what it is. I will give you the exact literal 12 translation of this word. It would be pumps to help 13 the steering. 14 A. Then the reinforcer for the brake 15 potential, the brake strengths. Sperry Vickers also 16 constructed steering equipment for military 17 aircrafts. 18 Q. In your tool-making apprenticeship, did you 19 have occasion to witness or work with any cleaning 20 processes? 21 A. Not really. The apprenticeship is such 22 that we are trained in general techniques. So we 23 are trained with working with the tools, such as 24 milling machines, vending machines, things like</p>	<p style="text-align: right;">Page 11</p> <p>1 worked as a fellow? 2 A. I was in charge of steering the Phantom 3 Hunters. The steering units were returned to us 4 from the Air Force. Then we checked the parts. If 5 they needed repair, we did the repair, and then we 6 returned them to the Air Force. 7 Q. During your work as a fellow, did you have 8 occasion to clean the steering equipment? 9 A. Yes. They were cleaned very carefully 10 using a humid brush. So it's very important that 11 this is done very carefully, because the parts are 12 sensitive. 13 Q. Were there any fluids used in this cleaning 14 process? 15 A. Yes. Cold cleaning. This is a regularly 16 used substance which you use for cold cleaning. 17 Q. Was the cleaning process automatic or 18 manual? 19 A. Well, the liquid was in a recipient, and 20 then I drenched the brush into the recipient with 21 the liquid, and I cleaned manually the tool. 22 Q. Were there any other cleaning processes you 23 worked with in your fellowship? 24 A. No, but depending on the material of the</p>
<p style="text-align: right;">Page 10</p> <p>1 that. 2 Q. During the apprenticeship, were the tools 3 that were made or used, were the tools ever cleaned? 4 A. Yes, they were cleaned, but they were 5 mainly cleaned by using a brush in order to get rid 6 of chips. 7 Q. Were they ever cleaned using fluids? 8 A. Yes. They were cleaned using a napkin with 9 a special cleaning substance, so that the rusting 10 would be avoided, the rust formation would be 11 avoided. 12 Q. Were there any other cleaning methods using 13 the fluid that you recall? 14 A. Not during the apprenticeship. 15 Q. You next mentioned you went to work, I 16 believe, I will use the term, as an aeronautical 17 engineering or something akin to that? 18 A. Engineer would not be the right translation 19 in the second part of the word you used. It would 20 be fellow. 21 Q. During what years did you work as a fellow? 22 A. This only happened during six months, and 23 this was around 1980. 24 Q. What were your responsibilities when you</p>	<p style="text-align: right;">Page 12</p> <p>1 tool that we cleaned, we used different cleaning 2 substances. 3 Q. And why would you use different cleaning 4 substances? 5 A. Because there were different materials 6 which were used, such as steel meshing. It's like 7 copper. So you have steel, you have a substance 8 which is like copper, or you have hand made 9 material, such as plastic. 10 Q. Am I correct you choose your solvents to 11 avoid reactions with the particular material of the 12 steering equipment? 13 A. It is not I myself who made the choice on 14 the liquids. It's the Air Force that dictated us 15 which liquids to use. 16 Q. Okay. When you went to the high school in 17 Oberursel, what was your course of study? 18 A. This is not like in college a study course 19 that you take with a specific concentration on the 20 subject. This is a technical high school diploma, 21 general knowledge. You need to have this diploma in 22 Germany in order to go to a college for further 23 education. 24 Q. How many years did you attend the technical</p>

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1 high school?

2 A. One year, and only one year, because this

3 was a specific program which was conceived for

4 people who had an apprenticeship.

5 Q. After you left the technical high school,

6 did you go to school or did you seek employment?

7 A. Then I started studying.

8 Q. And where did you study?

9 A. I studied in Frankfurt, mechanics.

10 Q. What school did you attend in Frankfurt?

11 A. This is a subject specific college. It's

12 called Fachhochschule. That's the name of the

13 college.

14 Q. Is it a technical college?

15 A. Yes.

16 Q. While you were at the school in Frankfurt,

17 did you focus on any particular courses or subject

18 matter?

19 A. It was construction and optics.

20 Q. Are you familiar with the term civil

21 engineering?

22 A. Yes, but civil engineering, that's not the

23 field I was studying in.

24 Q. Okay. When you say "construction," can you

Page 14

1 explain to me what career you would have been

2 looking to pursue after studying construction?

3 A. I have to correct this. Construction is

4 for what I did within construction is not the right

5 translation in English. Another word for

6 construction would be design.

7 INTERPRETER: There are three ways

8 interpreters know to translate the word construction

9 into English. I don't know which one it is.

10 MR. SHIMOTA: Okay. I got you. I

11 understand.

12 Q. Did you focus on the design of any

13 particular products or just design in general?

14 A. General design. So in general, it was the

15 objective of small design components.

16 Q. In connection with your design studies, do

17 you recall the courses you would have taken?

18 A. Partially. But there is a general

19 education system which has been conceived, which

20 everybody follows. It's the standard. During the

21 first three semesters, you have mathematics,

22 chemistry, physics, electronics and mechanics.

23 Q. Did you have occasion to study any cleaning

24 processes while you were at school in Frankfurt?

Page 15

1 A. No.

2 Q. How many years did you attend school in

3 Frankfurt?

4 A. I had to interrupt my studies after one

5 semester to finish my civil -- instead of going to

6 the military, you do the Civil Service. Then I went

7 back for seven semesters and I graduated.

8 Q. So it was approximately four and a half

9 years? I was wrong. I added it up wrong. Counting

10 the Civil Service, how long were you in school?

11 A. Somewhere between five and six years. So

12 the problem is this. Between the first semester and

13 the Civil Service, there was a break, and then there

14 was also another break between the end of the Civil

15 Service and the beginning of the next seven

16 semesters.

17 Q. What were your responsibilities when you

18 were in Civil Service?

19 A. I worked with refugees asylum seekers, in a

20 community of asylum seekers.

21 Q. Once you graduated from the school in

22 Frankfurt, what did you do next?

23 A. I had holiday for two months, and then I

24 did a job application for an engineer.

Page 16

1 Q. Where did you work following your studies

2 in Frankfurt?

3 A. With Black & Decker.

4 Q. When did you first come to work at Black &

5 Decker?

6 A. December 1, 1987.

7 Q. For how many years did you work at Black &

8 Decker?

9 A. Until 1994.

10 Q. What was your title at Black & Decker?

11 A. I had several functions within Black &

12 Decker. I started out as -- in this case it would

13 be a construction engineer. Then I became a project

14 manager. Then program manager. Then I changed

15 production. I then changed towards the production

16 field. There I was working with the finishing of

17 the products. I was head of production.

18 Q. While you were at Black & Decker, during

19 the whole period you were at Black & Decker, can you

20 describe for me generally what products you focused

21 on or were in charge of?

22 A. I only focused on one product during all of

23 those years, and those were pneumatic hammer drills.

24 Q. So this would have been from 1987 to 1994

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<p style="text-align: right;">Page 17</p> <p>1 you focused exclusively on pneumatic hammer drills?</p> <p>2 A. This was a range of products. I started</p> <p>3 developing these products in 1987, and then up to</p> <p>4 1994 I produced these hammer drills.</p> <p>5 Q. During your employment at Black & Decker,</p> <p>6 did you have occasion to become familiar with any</p> <p>7 cleaning processes?</p> <p>8 A. One cleaning process was used within the</p> <p>9 production line. But this cleaning process was part</p> <p>10 of a machine, integrated into a machine, and we did</p> <p>11 the acquisition of this cleaning process as a</p> <p>12 service which was included in that machine.</p> <p>13 Q. Can you describe for me how this machine</p> <p>14 operated?</p> <p>15 A. Only seen from the outside.</p> <p>16 Q. To the best of your recollection.</p> <p>17 A. So, for example, we manufactured ourselves</p> <p>18 the gears which were used for the production of the</p> <p>19 hammer drills. They were put into boxes, bins, and</p> <p>20 these bins were then sent through a washing line</p> <p>21 system in order to get rid of the chips.</p> <p>22 Q. So were the boxes sent on a conveyor belt?</p> <p>23 A. Yes.</p> <p>24 Q. Would there have been jets above spraying</p>	<p style="text-align: right;">Page 19</p> <p>1 and the project was the sunroof of BMW.</p> <p>2 Q. While you were managing the manufacture of</p> <p>3 sunroofs, did you have occasion to use any cleaning</p> <p>4 processes?</p> <p>5 A. No.</p> <p>6 Q. So following your employment at Rockwell,</p> <p>7 you came to work at Braun, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall what month in which you began</p> <p>10 to work at Braun?</p> <p>11 A. July 1, 1995.</p> <p>12 Q. When you came to work at Braun -- well, let</p> <p>13 me ask you one question. Did you receive a doctoral</p> <p>14 degree while you were at the university or the</p> <p>15 college in Frankfurt?</p> <p>16 A. No.</p> <p>17 Q. Let me just ask this question, then. Did</p> <p>18 you at some point receive a doctoral degree, at some</p> <p>19 point leading up to today receive a doctoral degree?</p> <p>20 A. No.</p> <p>21 Q. When you came to work at Braun in July of</p> <p>22 '95, what was your title?</p> <p>23 A. Project manager.</p> <p>24 Q. Were you the manager of any particular</p>
<p style="text-align: right;">Page 18</p> <p>1 fluid down onto the bins?</p> <p>2 A. It is not possible for me to answer this</p> <p>3 question, because I don't know. This was part of</p> <p>4 the machine, and you couldn't see that from the</p> <p>5 outside. It was a closed machine. At that point in</p> <p>6 time I was in charge of the management of the entire</p> <p>7 production. I was not in charge of the technical</p> <p>8 details.</p> <p>9 Q. What did you do after leaving Black &</p> <p>10 Decker in 1994?</p> <p>11 A. So after 1994, I applied for a job with</p> <p>12 different companies, several companies, and one of</p> <p>13 these companies was Braun. There was another</p> <p>14 company by the name of Rockwell International.</p> <p>15 Rockwell was the first one to employ me. I worked</p> <p>16 for one year, during one year for Rockwell. Then I</p> <p>17 signed a contract with Braun, and I switched jobs.</p> <p>18 I went to work for Braun.</p> <p>19 Q. Let's start with Rockwell. What was your</p> <p>20 job title at Rockwell?</p> <p>21 A. I was project manager within Rockwell.</p> <p>22 Q. What products did you manage while you were</p> <p>23 at Rockwell?</p> <p>24 A. I only managed one project within Rockwell,</p>	<p style="text-align: right;">Page 20</p> <p>1 project?</p> <p>2 A. Yes.</p> <p>3 Q. What project was that?</p> <p>4 A. The name of the project was cleaning</p> <p>5 center.</p> <p>6 Q. Do you know who was in charge of the</p> <p>7 cleaning center project prior to your arrival at</p> <p>8 Braun?</p> <p>9 A. Yes.</p> <p>10 Q. Who was that?</p> <p>11 A. That was Mr. Braun.</p> <p>12 Q. Are you aware that Mr. Braun left the</p> <p>13 employment of Braun in early 1995?</p> <p>14 A. Yes.</p> <p>15 Q. Did you replace Mr. Braun?</p> <p>16 A. Yes.</p> <p>17 Q. Maybe that was a confusing question. You</p> <p>18 were project manager. Did you have a direct</p> <p>19 predecessor?</p> <p>20 A. Well, if you want to say it that way, you</p> <p>21 could call Mr. Braun, my predecessor, but Mr. Braun</p> <p>22 was never a project manager as far as I know.</p> <p>23 Q. Who was the project manager for the</p> <p>24 cleaning center project prior to you assuming that</p>

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<p style="text-align: right;">Page 21</p> <p>1 position?</p> <p>2 A. I can't give an answer to that question.</p> <p>3 Q. Why can't you give an answer to that</p> <p>4 question?</p> <p>5 A. When I arrived, Mr. Braun has not been</p> <p>6 working in that company for several months already.</p> <p>7 Q. Well, when you arrived, who was working on</p> <p>8 the cleaning center project?</p> <p>9 A. Nobody.</p> <p>10 Q. Well, when you interviewed with Braun, did</p> <p>11 your interviewer explain that they would like you to</p> <p>12 begin working on the cleaning center project?</p> <p>13 MR. PATTON: I object to the form of the</p> <p>14 question.</p> <p>15 A. No.</p> <p>16 Q. When did you first learn of the cleaning</p> <p>17 center project?</p> <p>18 A. I would say that happened in the first or</p> <p>19 second week after I started working for Braun.</p> <p>20 Q. How did you first come to learn of the</p> <p>21 cleaning center project?</p> <p>22 A. If somebody starts working for Braun, it is</p> <p>23 general procedure that this new employee, during the</p> <p>24 first week of the employment, makes a tour of the</p>	<p style="text-align: right;">Page 23</p> <p>1 estimate 20 pages.</p> <p>2 Q. You said that there was at least one</p> <p>3 schematic. Do you recall whether there was more</p> <p>4 than one schematic?</p> <p>5 A. There were several drawings of parts, and</p> <p>6 at that point in time I did not know much about</p> <p>7 those parts yet.</p> <p>8 Q. Was there a complete drawing of the</p> <p>9 cleaning device?</p> <p>10 A. As far as I recall, no.</p> <p>11 Q. Was there any written memoranda -- well,</p> <p>12 are you familiar with the term "memoranda"?</p> <p>13 A. Not really.</p> <p>14 INTERPRETER: If you could translate this</p> <p>15 into something German the witness says to me, there</p> <p>16 are many different translations of that word. So I</p> <p>17 would need to know first what you mean.</p> <p>18 Q. Was there any correspondence between</p> <p>19 individuals at Braun regarding the cleaning center</p> <p>20 project?</p> <p>21 A. As far as I recall, no.</p> <p>22 Q. Beyond the drawings of the parts, can you</p> <p>23 characterize what the other documents would have</p> <p>24 been generally?</p>
<p style="text-align: right;">Page 22</p> <p>1 department. So the person learns to know the</p> <p>2 colleagues, all the installations, the whole setup.</p> <p>3 During that week, nobody talks about a specific</p> <p>4 project, but it is an introduction to Braun in</p> <p>5 general, to the department.</p> <p>6 Q. Okay. After your original introduction,</p> <p>7 how did you then first learn of the cleaning center</p> <p>8 project?</p> <p>9 A. It was my direct supervisor or my direct</p> <p>10 boss who informed me of this project. He gave me</p> <p>11 written material, written information material, and</p> <p>12 some parts, and explained to me that I would have to</p> <p>13 familiarize myself with the material.</p> <p>14 Q. Who was your direct supervisor in July of</p> <p>15 1995?</p> <p>16 A. That was Mr. Walter Schaefer.</p> <p>17 Q. What written materials did Mr. Schaefer</p> <p>18 provide to you?</p> <p>19 A. It was a binder, and in this binder were</p> <p>20 some written information, some drawings, and some</p> <p>21 figures.</p> <p>22 Q. Can you tell me approximately how many</p> <p>23 pages of paper would have been in this binder?</p> <p>24 A. It was not that large of a binder. I would</p>	<p style="text-align: right;">Page 24</p> <p>1 A. There were several pages, and in all of</p> <p>2 these pages was the same drawing, and the same</p> <p>3 drawing reflected the functioning of a -- I mean,</p> <p>4 literal translation, a machine to give or to supply</p> <p>5 a chicken with water.</p> <p>6 Q. This is a term I've heard before, the</p> <p>7 chicken watering system. Can you explain to me what</p> <p>8 you mean by a chicken watering system?</p> <p>9 A. The drawing represented the cleaning system</p> <p>10 in broad outlines, and then one of the functions</p> <p>11 where they did this study or how they explained the</p> <p>12 way the cleaning machine worked was with the example</p> <p>13 of the chicken watering system.</p> <p>14 Q. Is there some type of system in agriculture</p> <p>15 where chickens are fed or provided with water that</p> <p>16 you were thinking of?</p> <p>17 A. Yeah. I was born in a rural area, and</p> <p>18 everybody has such equipment.</p> <p>19 Q. I wasn't. So can you describe for me what</p> <p>20 this equipment would look like, this chicken</p> <p>21 watering trough?</p> <p>22 A. The trough is a recipient with liquid in</p> <p>23 it, and the liquid is in the regular phases supplied</p> <p>24 into this trough so that the trough never dries and</p>

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<p style="text-align: right;">Page 25</p> <p>1 the chicken always has water.</p> <p>2 Q. With the trough for the chickens, how is</p> <p>3 the water supplied to the trough?</p> <p>4 A. When there is no water any more in the</p> <p>5 trough, air is replacing the water, the function of</p> <p>6 the water.</p> <p>7 Q. So is water pumped into the trough in some</p> <p>8 way?</p> <p>9 A. No.</p> <p>10 Q. So is it poured into the trough manually?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So when the trough becomes dry,</p> <p>13 someone needs to come over and pour more water into</p> <p>14 it?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. With that in mind, why did you think</p> <p>17 or why were you reminded of the chicken feeding</p> <p>18 system when you saw the original work on the</p> <p>19 cleaning system at Braun?</p> <p>20 A. One cannot call this a system really. It</p> <p>21 is the function which was provided, which reminded</p> <p>22 me of the trough, because this was a funny concept,</p> <p>23 and it stuck in my mind, a funny name, and it stuck</p> <p>24 in my mind.</p>	<p style="text-align: right;">Page 27</p> <p>1 to manage the cleaning center project?</p> <p>2 A. Well, prior to that, I was working on the</p> <p>3 sunroof, and before working on the sunroof, I never</p> <p>4 was working on the sunroof before, and you can</p> <p>5 always study a certain technology.</p> <p>6 Q. So based upon your education and work</p> <p>7 experience, you felt you were qualified to manage</p> <p>8 the cleaning center project; is that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. The binder that we were discussing, do you</p> <p>11 still have that binder?</p> <p>12 A. That binder doesn't exist any more in its</p> <p>13 original form. During the first six months in 1995,</p> <p>14 I compiled every single information I could gather</p> <p>15 on the cleaning, shaving instruments, on the</p> <p>16 cleaning systems. So I organized my own binder with</p> <p>17 my own information material.</p> <p>18 Q. Does the binder that you generated in the</p> <p>19 first six months still exist?</p> <p>20 A. Well, of course this binder became much</p> <p>21 larger over time.</p> <p>22 Q. When you say a binder, do you mean a</p> <p>23 laboratory notebook or are you talking about</p> <p>24 something along the lines of this?</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. What was the funny name?</p> <p>2 A. Chicken trough.</p> <p>3 Q. Was chicken trough a term or chicken</p> <p>4 watering system -- that's bad. Was chicken trough a</p> <p>5 term that you used in general to describe the</p> <p>6 original cleaning system?</p> <p>7 A. No.</p> <p>8 Q. You never used the term "chicken watering</p> <p>9 system" to describe what you saw?</p> <p>10 A. No.</p> <p>11 Q. When you started work on the cleaning</p> <p>12 center project, did you have any experience in the</p> <p>13 design of dry shavers?</p> <p>14 A. No.</p> <p>15 Q. Did you see your lack of experience in the</p> <p>16 design of dry shavers as a problem with respect to</p> <p>17 your management of the cleaning center project?</p> <p>18 A. No.</p> <p>19 Q. In July of 1995, did you believe you were</p> <p>20 qualified to manage the cleaning center project?</p> <p>21 MR. PATTON: I object to the form of the</p> <p>22 question.</p> <p>23 A. Yes.</p> <p>24 Q. Why did you believe that you were qualified</p>	<p style="text-align: right;">Page 28</p> <p>1 A. We are talking about both. I had my own</p> <p>2 lab notebook, but then I also had my file, I mean my</p> <p>3 binder, where I filed my own documents, my</p> <p>4 information. With each project phase, the order, I</p> <p>5 mean, the way the binder is put together changes.</p> <p>6 Q. In the first phase, in the first six months</p> <p>7 of the project, can you recall how large the binder</p> <p>8 would have been, approximately, in terms of volume</p> <p>9 of paper?</p> <p>10 A. I can't express this in the number of</p> <p>11 pages, but it was a fat binder which was already</p> <p>12 relatively full at that time.</p> <p>13 Q. Okay. Why don't we take a step back. You</p> <p>14 mentioned Mr. Schaefer provided you with some</p> <p>15 background materials. Did you come to receive any</p> <p>16 additional documents detailing work on the cleaning</p> <p>17 center prior to your arrival at Braun?</p> <p>18 A. No.</p> <p>19 Q. Did you ever receive Mr. Braun's personal</p> <p>20 files related to his work on the cleaning center</p> <p>21 project?</p> <p>22 A. No.</p> <p>23 Q. Do you know what became of Mr. Braun's</p> <p>24 files related to the cleaning center project after</p>

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<p style="text-align: right;">Page 29</p> <p>1 he left the employment of Braun?</p> <p>2 A. Part of the documents in the first binder</p> <p>3 were documents of Mr. Braun. I found in that first</p> <p>4 binder drawings that were made by Mr. Braun.</p> <p>5 Q. Okay. So the first binder, you're talking</p> <p>6 about what was provided to you by Mr. Schaefer?</p> <p>7 A. Yes.</p> <p>8 Q. And did you ever come to find any other</p> <p>9 documents that were authored by Mr. Braun related to</p> <p>10 the cleaning center project?</p> <p>11 A. Yes. In the department where we keep the</p> <p>12 drawings, there existed some large documents which I</p> <p>13 then also took over.</p> <p>14 Q. How many large drawings -- I don't know if</p> <p>15 you said documents or drawings -- how many large</p> <p>16 documents would there have been, approximately?</p> <p>17 A. At the most, one or two.</p> <p>18 Q. The binders that -- well, let's just talk</p> <p>19 about -- well, you said over the course of your work</p> <p>20 on the cleaning center project you generated many</p> <p>21 binders; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Can you approximate for me how many</p> <p>24 binders?</p>	<p style="text-align: right;">Page 31</p> <p>1 a possibility that some of these pages are</p> <p>2 redundant, because I have it once computer generated</p> <p>3 and I have it on papers. So the same document might</p> <p>4 appear twice.</p> <p>5 Q. Did there come a time within Braun where</p> <p>6 there was an intranet which would have had a file</p> <p>7 related to the cleaning center project?</p> <p>8 A. No.</p> <p>9 MR. SHIMOTA: Could you like to take a</p> <p>10 little break?</p> <p>11 MR. PATTON: I would.</p> <p>12 VIDEOGRAPHER: Off the record, 10:30 a.m.</p> <p>13 (Recess)</p> <p>14 VIDEOGRAPHER: Back on the record, 10:42</p> <p>15 a.m.</p> <p>16 MR. SHIMOTA: Welcome back. I would like</p> <p>17 to mark as Defendant's Deposition No. 49 Defendant's</p> <p>18 First Notice of Rule 30(b)(6) deposition.</p> <p>19 (Document marked as Exhibit 49</p> <p>20 for identification)</p> <p>21 Q. I'd ask you if you recognize this document?</p> <p>22 A. Yes.</p> <p>23 Q. If you could direct your attention to Page</p> <p>24 4 through Page 6, do you see that there are 26</p>
<p style="text-align: right;">Page 30</p> <p>1 A. No.</p> <p>2 Q. Would it be more than ten?</p> <p>3 A. No.</p> <p>4 Q. So would it be more than five binders?</p> <p>5 A. Yes.</p> <p>6 Q. You used the term fat binders. Are all the</p> <p>7 binders you would be thinking of, would those be fat</p> <p>8 binders?</p> <p>9 A. Yes.</p> <p>10 Q. Do you still have the five or more or</p> <p>11 approximately five binders?</p> <p>12 A. I think I gave you all of the binders I</p> <p>13 have.</p> <p>14 Q. So you believe you provided all of the</p> <p>15 binders to Braun's attorneys?</p> <p>16 A. Yes. Maybe to explain, from a certain</p> <p>17 point on in the documents relating to the project,</p> <p>18 everything is documented about our computer system.</p> <p>19 Q. So all the documents are archived</p> <p>20 electronically?</p> <p>21 A. No. I mean, from a certain point in time</p> <p>22 onwards, the design, the main design, was done on</p> <p>23 CAD. So from that point on, no information could be</p> <p>24 lost with regards to the design any more. There is</p>	<p style="text-align: right;">Page 32</p> <p>1 numbered topics listed on those pages?</p> <p>2 A. Yes.</p> <p>3 Q. Are you prepared to testify today on behalf</p> <p>4 of Braun with respect to each of those 26 topics?</p> <p>5 A. Yes.</p> <p>6 Q. And you understand with respect to those 26</p> <p>7 numbered topics, you are not only testifying as to</p> <p>8 your personal knowledge, but also as to the</p> <p>9 knowledge of Braun, correct?</p> <p>10 A. Yes.</p> <p>11 Q. What did you do to prepare for the</p> <p>12 deposition today?</p> <p>13 A. I was sitting in with the attorneys, and we</p> <p>14 went through these points.</p> <p>15 Q. Would the attorneys have been Mr. Patton</p> <p>16 and Ms. Wendlandt?</p> <p>17 A. Yes.</p> <p>18 Q. Did you meet with any other attorneys?</p> <p>19 A. Mrs. Wolf was there as well.</p> <p>20 Q. Did you meet with attorneys for a day or</p> <p>21 more than one day?</p> <p>22 A. One day.</p> <p>23 Q. And over approximately how many hours did</p> <p>24 you meet with attorneys?</p>

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<p style="text-align: right;">Page 33</p> <p>1 A. I would say three hours.</p> <p>2 Q. Over the course of those three hours, did</p> <p>3 you review any documents?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall how many documents you</p> <p>6 reviewed?</p> <p>7 A. No.</p> <p>8 Q. Do you recall any particular documents that</p> <p>9 you reviewed?</p> <p>10 A. Yes.</p> <p>11 Q. What documents would those be?</p> <p>12 A. The chronology line.</p> <p>13 Q. Oh, the time line?</p> <p>14 A. Yes.</p> <p>15 Q. Did you review any other documents aside</p> <p>16 from the time line? Let me rephrase that question.</p> <p>17 Do you recall any specific documents that you</p> <p>18 reviewed aside from the time line?</p> <p>19 A. Yes. The patent application of Mr. Braun.</p> <p>20 Q. Do you mean Mr. Braun's actual patent or</p> <p>21 his invention disclosure record?</p> <p>22 A. I mean the disclosure, the patent</p> <p>23 disclosure.</p> <p>24 Q. Did you review the patents that are</p>	<p style="text-align: right;">Page 35</p> <p>1 preparation for your deposition?</p> <p>2 A. No.</p> <p>3 Q. Have you reviewed your laboratory notebooks</p> <p>4 at all recently?</p> <p>5 A. No.</p> <p>6 Q. Aside from your meeting with the lawyer --</p> <p>7 did the meeting with the lawyers occur yesterday?</p> <p>8 A. No. It was Monday.</p> <p>9 Q. Okay. Aside from your meeting with the</p> <p>10 lawyers on Monday, did you do anything else to</p> <p>11 prepare yourself to testify with respect to the 26</p> <p>12 topics in Defendant's Exhibit 49?</p> <p>13 A. No.</p> <p>14 Q. Did you talk with any employees of Braun to</p> <p>15 provide yourself with knowledge with respect to the</p> <p>16 26 listed topics?</p> <p>17 A. I talked to Mr. Sievers who works in the</p> <p>18 patent department.</p> <p>19 Q. Did you discuss with Mr. Sievers -- well,</p> <p>20 did Mr. Sievers provide you any information to</p> <p>21 enable you to testify with respect to the 26 listed</p> <p>22 topics?</p> <p>23 A. Certainly.</p> <p>24 Q. What information did Mr. Sievers provide</p>
<p style="text-align: right;">Page 34</p> <p>1 asserted against Rayovac in this?</p> <p>2 A. We were talking about them.</p> <p>3 Q. Do you recall any other documents</p> <p>4 specifically that you reviewed aside from what we've</p> <p>5 already discussed?</p> <p>6 A. The Messinger files. Messinger is the name</p> <p>7 of the person who compiled files.</p> <p>8 Q. Do you recall any other documents</p> <p>9 specifically that you reviewed?</p> <p>10 A. The depositions of Braun and Pahl from last</p> <p>11 year.</p> <p>12 Q. You reviewed the deposition transcripts of</p> <p>13 Mr. Braun and Mr. Pahl?</p> <p>14 A. I just looked over them.</p> <p>15 Q. Do you recall how long you would have</p> <p>16 looked over them?</p> <p>17 A. A few minutes.</p> <p>18 MS. WENDLANDT: Jim, just to clarify, I</p> <p>19 think there may have been a mistranslation. It</p> <p>20 wasn't the deposition transcripts, but the</p> <p>21 affidavits.</p> <p>22 MR. SHIMOTA: All right. I didn't quite</p> <p>23 understand how he would have done that.</p> <p>24 Q. Did you review your laboratory notebooks in</p>	<p style="text-align: right;">Page 36</p> <p>1 you?</p> <p>2 A. I asked him if it would be possible for him</p> <p>3 to explain in broad outlines the two patents to me.</p> <p>4 Q. So I take it -- well, had you seen the two</p> <p>5 patents prior to speaking with Mr. Sievers?</p> <p>6 A. No.</p> <p>7 Q. Had you seen the German versions of the two</p> <p>8 patents?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall when you had seen the German</p> <p>11 versions of the two patents?</p> <p>12 A. I can't say with certainty, but it must</p> <p>13 have been '95, '96.</p> <p>14 Q. Did Mr. Sievers provide you any other</p> <p>15 information to enable you or to help you prepare to</p> <p>16 testify with respect to the 26 listed topics in</p> <p>17 Defendant's Exhibit 49?</p> <p>18 A. No.</p> <p>19 Q. Aside from Mr. Sievers, did you talk with</p> <p>20 anyone else at Braun to gain information to help you</p> <p>21 testify with respect to the 26 topics listed in</p> <p>22 Defendant's Exhibit 49?</p> <p>23 A. No.</p> <p>24 Q. If you could look to Topic 14 on Page 5, I</p>

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<p style="text-align: right;">Page 37</p> <p>1 take it you are prepared to testify with respect to</p> <p>2 Braun's document retention and destruction policies?</p> <p>3 A. Yes.</p> <p>4 Q. Can you describe for me in general what</p> <p>5 Braun's document retention policy is?</p> <p>6 A. The main document retention with regards to</p> <p>7 a certain project always happens at a certain point</p> <p>8 in time on our CAD system and our parts system. The</p> <p>9 employees have absolutely no impact on the length of</p> <p>10 time when these documents are retained.</p> <p>11 Q. When you say the employees have no input as</p> <p>12 to the length of time the documents are retained,</p> <p>13 who makes the decision as to the length of time?</p> <p>14 A. As far as I know, the decision is made in</p> <p>15 the department, which is in charge of data</p> <p>16 management.</p> <p>17 Q. Okay. Who is in charge of the department</p> <p>18 of data management?</p> <p>19 A. I don't know.</p> <p>20 Q. Is there a written policy with regard to</p> <p>21 the length of time -- well, let me take a step back.</p> <p>22 I believe we are talking about electronic</p> <p>23 information in the CAD system and the part system;</p> <p>24 is that correct?</p>	<p style="text-align: right;">Page 39</p> <p>1 A. Yes.</p> <p>2 Q. So documents related to the cleaning center</p> <p>3 project would still be -- well, the electronic</p> <p>4 information related to the cleaning center project</p> <p>5 would still be retained by Braun?</p> <p>6 A. Yes.</p> <p>7 Q. With respect to the electronic information,</p> <p>8 you mentioned the CAD system, correct?</p> <p>9 A. And I also mentioned the parts system.</p> <p>10 Q. Let's start with the CAD system first. Am</p> <p>11 I correct that in the CAD system, there would be</p> <p>12 drawings of both the cleaning system as a whole and</p> <p>13 parts of the cleaning system?</p> <p>14 A. There are drawings related to the parts.</p> <p>15 There are drawings related to design groups, and</p> <p>16 then there are, of course, the parts themselves and</p> <p>17 the design groups themselves.</p> <p>18 Q. Do you recall what year in which Braun</p> <p>19 would have been using the CAD system with respect to</p> <p>20 the cleaning center project?</p> <p>21 A. Approximately in 1997.</p> <p>22 Q. Can you approximate for me from 1997 to the</p> <p>23 present how many drawings would have been created</p> <p>24 for the cleaning center project in the CAD system?</p>
<p style="text-align: right;">Page 38</p> <p>1 A. Yes.</p> <p>2 Q. Is there a written policy with respect to</p> <p>3 how long that particular electronic information is</p> <p>4 maintained within the Braun system?</p> <p>5 A. As far as I know, no.</p> <p>6 Q. When you say as far as you know, did you</p> <p>7 check whether there is a written policy?</p> <p>8 A. The lawyers checked that.</p> <p>9 Q. What lawyers checked that?</p> <p>10 A. Our lawyers.</p> <p>11 Q. And you learned from your lawyers that</p> <p>12 there is not a written policy?</p> <p>13 A. Yes.</p> <p>14 Q. Well, is the decision with respect to the</p> <p>15 retention of the electronic -- well, let me ask this</p> <p>16 question. How do the people in the information</p> <p>17 department know how long to retain the electronic</p> <p>18 information?</p> <p>19 A. The documents are retained as long as the</p> <p>20 project is active, because the developer of the</p> <p>21 project needs at any time to be able to retrieve any</p> <p>22 information with regards to the project.</p> <p>23 Q. Is the cleaning center project still</p> <p>24 project?</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Do you mean with or without amendments?</p> <p>2 Q. I mean both, with amendments, you know,</p> <p>3 combining original drawings and amendments to those</p> <p>4 drawings. Iterations if that makes sense.</p> <p>5 A. Hundreds.</p> <p>6 Q. Could it be more than a thousand drawings?</p> <p>7 A. I don't know.</p> <p>8 Q. Now, you also mentioned the parts system.</p> <p>9 Can you explain to me what you mean by the parts</p> <p>10 system?</p> <p>11 A. A parts list documents what parts in which</p> <p>12 order are necessary in order to manufacture a</p> <p>13 product, and which materials and which colors,</p> <p>14 including the packaging, are necessary.</p> <p>15 Q. When you say the list of parts, are you</p> <p>16 familiar with the term "bill of materials"?</p> <p>17 A. Yes.</p> <p>18 Q. Are you talking about a bill of materials?</p> <p>19 A. Yes.</p> <p>20 Q. Within the electronic database, do you have</p> <p>21 any estimation of how many bills of materials there</p> <p>22 would be related to the cleaning center project?</p> <p>23 A. I'm certain that there are more than 20 or</p> <p>24 30, because every country receives its own bill of</p>

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1 materials. We are only talking about the active
 2 ones.
 3 Q. I would like to know, starting from what
 4 would be the original bill of materials that were
 5 stored electronically, to present, how many would
 6 you estimate?
 7 A. To clarify, when I start with a bill of
 8 materials, if there is a modification or an
 9 amendment made to the bill of material, I do not
 10 start a new bill of material, but there will be a
 11 difference in indexing. It will just have a
 12 different index.
 13 Q. It would be, for example, a bill of
 14 materials, version one, bill of materials, version
 15 two?
 16 A. Exactly.
 17 Q. With that clarification in mind, can you
 18 estimate for me approximately how many bills of
 19 materials would be stored electronically at Braun?
 20 A. I don't know.
 21 Q. Would it be more than a thousand?
 22 A. No.
 23 Q. More than a hundred?
 24 A. It's a guess.

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1 Q. Okay. Aside from the CAD system
 2 information and the parts system information, would
 3 there be any other information stored electronically
 4 with respect to the cleaning center project at
 5 Braun?
 6 A. Yes.
 7 Q. What information would that be?
 8 A. There are the e-mails, and then there are
 9 presentations in the computer systems which are
 10 managed by the individuals, and there are reports.
 11 Q. Let's start with reports. What do you mean
 12 by "reports"?
 13 A. The word "report" has several meanings.
 14 There are conversation reports, meeting reports, and
 15 quality reports.
 16 Q. Are the meeting reports stored in a central
 17 location electronically or are they stored with an
 18 individual?
 19 A. Individual.
 20 Q. Can you explain what you mean by quality
 21 report?
 22 A. When we test a product, for example, the
 23 user friendliness of the product. Then this report
 24 is officially generated by the quality department,

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1 the quality control department, and this is then
 2 stored in the central system.
 3 Q. With respect to the quality reports -- do
 4 you know what is Braun's document retention policy
 5 with respect to the quality reports?
 6 A. No.
 7 Q. Do you have any idea who could answer the
 8 question what is Braun's document retention policy
 9 with respect to the quality reports?
 10 A. Yes. We do have somebody who manages all
 11 the documents. There is a department for that
 12 purpose.
 13 Q. Do you know of a name of that individual?
 14 A. Yes.
 15 Q. What is that individual's name?
 16 A. Uta Abraham.
 17 Q. Have you seen the quality reports in the
 18 central -- is it a central database?
 19 A. I don't know how you mean this. What do
 20 you mean by see?
 21 Q. Let me take a step back and ask this
 22 question. There's a central computer or group of
 23 computers at Braun in which electronic information
 24 is stored, correct?

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1 A. I assume that.
 2 Q. Well, do you know whether within that
 3 computer information is segregated by project?
 4 A. Yes.
 5 Q. Am I correct that it is segregated by
 6 project?
 7 A. Yes.
 8 Q. So am I also correct that there is a
 9 database for the cleaning center project?
 10 A. I wouldn't call this a data bank. You have
 11 to enter a word and do a search, perform a search.
 12 I don't know how the data bank is organized.
 13 Q. But the particular area for the project is
 14 searchable by a user, correct?
 15 A. Yes.
 16 Q. Have you personally performed searches in
 17 this folder or files for -- well, let me rephrase.
 18 Have you personally performed searches related to
 19 the cleaning center project within this grouping of
 20 information?
 21 A. Yes.
 22 Q. Who has access at Braun to this cleaning
 23 center file?
 24 A. I don't know the names of the people who

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<p style="text-align: right;">Page 45</p> <p>1 have access, but I know that a number of people who 2 have access is a limited number. You have to have a 3 user ID and a password. 4 Q. Within this file folder, I think we have 5 been talking about, in general, for terms of 6 electronic information, technical information; is 7 that fair to say? 8 A. Yes. 9 Q. Within these files, would there also be 10 financial information related to the cleaning center 11 project? 12 A. No. 13 Q. Well, is this file solely -- well, let me 14 take a step back. Within this file or this grouping 15 of electronic information, is there also information 16 related to the marketing of the cleaning center 17 project? 18 A. As far as I know, no, and I don't have 19 access to that information anyway. 20 Q. Well, do you know whether from 1995 to the 21 present whether there have been marketing studies 22 with respect to the cleaning center project? 23 A. Yes. 24 Q. Do you know where the market research would</p>	<p style="text-align: right;">Page 47</p> <p>1 presentations which would be stored individually or 2 presentations which could be stored individually? 3 A. Yes. 4 Q. What is Braun's document retention policy 5 with respect to individual presentations? 6 A. There is no policy. Everybody maintains 7 those presentations as long as he or she believes 8 they would serve them. 9 Q. You also mentioned e-mails? 10 A. Yes. 11 Q. How long has Braun had e-mail? 12 A. I would say it was around '97, '98. 13 Q. What is Braun's document retention policy 14 with respect to electronic mail? 15 A. Everybody has a limited file size, and if 16 the individual employee goes beyond that size, then 17 they have to delete files. There is the possibility 18 to transfer some files to an intermediary archive 19 system, but also that intermediary archive system is 20 limited in space. 21 Q. Do you know if there are e-mails archived 22 related to the cleaning center project? 23 A. Certainly. 24 Q. Would they be in the intermediary archive?</p>
<p style="text-align: right;">Page 46</p> <p>1 be stored at Braun? 2 A. No. 3 Q. Do you know what Braun's document retention 4 policies are with respect to the market research 5 pertaining to the cleaning center project? 6 A. No. 7 Q. Let me see if I can expedite this. Your 8 knowledge with respect to Braun's document retention 9 and destruction policies pertains to retention and 10 destruction of technical documentation pertaining to 11 the cleaning center project; is that correct? 12 A. Yes. 13 Q. Do you know who I would ask, if I needed to 14 -- well, do you know who I would ask the question 15 what is Braun's -- let me rephrase that. 16 Do you know who I should ask the question 17 what are Braun's document retention policies for the 18 marketing research for the cleaning center project? 19 A. Ms. Abraham. 20 Q. If I wanted to ask the same question with 21 respect to financial information, would I also ask 22 Ms. Abraham? 23 A. That I don't know. 24 Q. Taking a step back, you also mentioned</p>	<p style="text-align: right;">Page 48</p> <p>1 A. I can also speak on my personal behalf. 2 That's the place where my files would be. 3 Q. Would those files be stored -- we talked 4 earlier about the cleaning center project file. 5 Would the e-mails also be grouped in the cleaning 6 center file or would that be a separate location? 7 A. So everybody can organize the e-mails the 8 way he or she likes to do so, I myself organize my 9 own file with mails related to the cleaning center. 10 Q. Do you know how many individuals who have 11 worked on the cleaning center project have archived 12 e-mails related to the cleaning center project, 13 approximately? 14 A. No. When one works on such a project, 15 everybody is involved in some way in this project. 16 There are people who work with the finishing of the 17 products, the manufacturing, the production line, 18 and then there is the management department, there 19 is the sales department. So many people can be 20 involved in this. 21 Q. Well, for yourself personally, can you 22 approximate for me how much e-mail you have archived 23 related to the cleaning center project? 24 A. Hundreds.</p>

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<p style="text-align: right;">Page 49</p> <p>1 MR. SHIMOTA: We need to take a break to 2 change the tape. 3 VIDEOGRAPHER: Here ends tape number one. 4 Off the record, 11:28 a.m. 5 (Recess) 6 VIDEOGRAPHER: Here begins videotape number 7 two in today's deposition of Juergen Hoeser. Back 8 on the record at 11:37 a.m. 9 BY MR. SHIMOTA: 10 Q. We were previously discussing electronic 11 information, and correct me if I'm wrong, but I 12 think Braun started using electronic information or 13 generating electronic information in earnest around 14 1997? 15 A. That's correct. 16 Q. Prior to that time I assumed everything was 17 recorded on paper? 18 A. Yes. 19 Q. With respect to the cleaning center 20 project, what is Braun's document retention policy 21 with respect to paper records? 22 A. There is none. 23 Q. Is there a document destruction policy with 24 respect to the paper records?</p>	<p style="text-align: right;">Page 51</p> <p>1 A. Because of conversations with Mr. Sievers 2 and his predecessor. 3 Q. Who is Mr. Sievers' predecessor? 4 A. Mr. Klauer, K-l-a-u-e-r. 5 Q. So Mr. Klauer and Mr. Sievers told you 6 there's an archive of materials related to the 7 cleaning center project? 8 A. No. 9 Q. What did Mr. Klauer or Mr. Sievers tell you 10 regarding the archiving of information regarding the 11 cleaning center project? 12 A. They didn't say anything to me with regards 13 of archiving of information regarding the cleaning 14 center project. They said to me that 15 invention-related material is maintained, is stored. 16 Q. Okay. Do you know what Braun's document 17 retention policy is with respect to 18 invention-related materials? 19 A. No. 20 Q. Do you know who I should ask the question 21 what Braun's policy is with respect -- well, Braun's 22 document retention policy is with respect to the 23 invention-related materials? 24 A. Mr. Sievers.</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Not to my knowledge. 2 Q. So with respect to the paper records, am I 3 correct with respect to paper records an employee is 4 free to either keep them or throw them away? 5 A. Yes. 6 Q. Do you know if there is any archive of 7 paper records with respect to the cleaning center 8 project? 9 A. My own archive. 10 Q. Other than your own, is there any other 11 storage of paper records relating to the cleaning 12 center project? 13 A. In the patent department. 14 Q. Have you seen the archival records in the 15 patent department? 16 A. I have not seen them with my own eyes, but 17 I know that they exist there. 18 Q. Let me make sure. In the patent 19 department's archives, are there technical 20 documents, and I don't mean patents, retained? 21 A. There are patents and there are 22 invention-related material. 23 Q. Well, you said you know that this archive 24 exists. How do you know it exists?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Do you know whether Mr. Sievers received 2 all of Mr. Klauer's files? 3 A. No. 4 Q. If you could look to Topic No. 3 -- 5 actually, topics six and seven, but look to three 6 first. Topic 7 says, "Any and all steps taken by 7 Braun to collect documents authored by, sent to or 8 from the files of Dietrich Pahl or Gebhard Braun." 9 INTERPRETER: There wasn't any question, 10 right? 11 MR. SHIMOTA: No. I was just directing his 12 attention to it. 13 Q. What steps were taken by Braun to collect 14 documents authored by, sent to or from the files of 15 Dietrich Pahl? 16 A. I was asked to provide my documents. This 17 includes the documents of Mr. Pahl and Mr. Braun. 18 As far as I owned those documents, and I provided 19 all of those documents to the lawyers. 20 Q. What documents did you have from Dr. Pahl? 21 A. I had the chicken trough drawings, the 22 chicken trough documents, and some drawings. 23 Q. What are the chicken trough documents that 24 you refer to?</p>

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<p style="text-align: right;">Page 53</p> <p>1 A. I refer to the very first documents in the 2 very first binder, which I received with regards to 3 explaining the effects of such a chicken trough. 4 Q. Was there a memo explaining the effects of 5 the chicken trough or did I mishear you? 6 A. Yes. 7 Q. What did this memo look like? 8 A. It had the following respect. You saw a 9 cleaning center, very rough sketched of a cleaning 10 center, and underneath that drawing you had the 11 explanations in lines of the effects of such a 12 chicken trough cleaning center. 13 Q. Did this memo have written at the top 14 "future" -- 15 A. No. 16 Q. Do you recall the date of this document? 17 A. No. I even think there was no date on this 18 document, but I'm not 100 percent sure. In any 19 case, this document was authored prior to 1995. 20 MR. SHIMOTA: I'd like to mark as 21 Defendant's Deposition Exhibit No. 50 English 22 version of Braun 1069 to 1073, and mark as 23 Defendant's Deposition Exhibit 51 the German version 24 of B1069 to 1073, although this actually goes to</p>	<p style="text-align: right;">Page 55</p> <p>1 A. Yes. 2 Q. Were you able to distinguish from those 3 documents which were the documents of Dr. Pahl and 4 which were the documents of Gebhard Braun? 5 A. Only partially. 6 Q. When you say "only partially," what do you 7 mean when you say "only partially"? 8 A. When I received those documents, some of 9 those documents did not have a signature, to give 10 you an example. 11 Q. Well, can you recall any of them which you 12 knew were documents owned or were documents of Dr. 13 Pahl? 14 A. I can't recall that now. 15 Q. When you received the documents in July of 16 '95, were you aware they were documents from both 17 Mr. Braun and Dr. Pahl? 18 A. Yes. Mr. Schaefer told me so. 19 Q. Mr. Schaefer told you that you were 20 receiving documents from both Mr. Braun and Dr. 21 Pahl? 22 A. Yes. He said these are the documents which 23 have to do with the cleaning center project, and 24 those documents that Mr. Pahl and Mr. Braun were</p>
<p style="text-align: right;">Page 54</p> <p>1 1076. This is B1069 to 1076. 2 (Documents marked as Exhibits 50 and 51 3 for identification) 4 Q. Is this the memo you referred to? 5 A. No. 6 Q. Do you recall who was the author of the 7 memo? Not that, but the memo regarding the chicken 8 trough? 9 A. I believe that it was Mr. Braun. 10 Q. Was the memo distributed to anyone? 11 A. What do you mean "distributed"? 12 Q. Was the memo prepared for any other 13 individuals. 14 A. No. When this document was prepared by Mr. 15 Braun for his own work, and he did this memo for 16 himself to explain steps of his own work to himself. 17 Q. As of when you provided the documents to 18 your lawyers, did this memo still exist? 19 A. No, I can't answer that. 20 Q. Let me take a step back. When you talk 21 about the steps that Braun took to collect the 22 documents of Dietrich Pahl and Gebhard Braun, you 23 mentioned the 20 or so documents provided to you by 24 Mr. Schaefer, correct?</p>	<p style="text-align: right;">Page 56</p> <p>1 working on. 2 Q. Mr. Schaefer told you Mr. Braun and Dr. 3 Pahl were both working on the cleaning center 4 project? 5 A. Yes. 6 Q. Did he tell you what roles Mr. Braun and 7 Dr. Pahl had on the cleaning center project 8 respectively? 9 A. It was clear that Pahl was the boss and 10 Braun was the co-worker. 11 Q. When you started working, did anyone tell 12 you who made the first cleaning center? 13 A. Not directly. I was told that the person 14 who worked on this before was retired, and that it 15 was Mr. Braun, and Mr. Pahl didn't work there any 16 more. 17 Q. Taking us back to Topic No. 7, aside from 18 you personally looking through your files for the 19 documents of Dietrich Pahl and Gebhard Braun, what 20 other steps did Braun take to collect documents 21 authored by, sent to or received from the files of 22 those two gentlemen? 23 A. I don't know. 24 Q. If you could look at Topic 3, I'm going to</p>

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<p style="text-align: right;">Page 57</p> <p>1 ask you the same type of question I did for No. 7. 2 Do you see the first individual is yourself. What 3 did you do to collect documents from your personal 4 files related to the shaver cleaning center project? 5 A. I handled this as a project. This was a 6 project for me. In my own department, I contacted 7 all the people who might have made a contribution, 8 and all those people who might have information 9 which could help me. 10 Q. So there's a list of individuals here 11 following your name. Did you contact each of these 12 individuals and ask them to gather documents related 13 to the shaver cleaning system project? 14 A. I certainly spoke to all of those people, 15 but I did not contact them at the very beginning. 16 Some of those people joined Braun much later or only 17 help out at that time, then, with the project. 18 Q. Taking a step back to yourself, am I 19 correct that you did not provide your electronic 20 information to Braun's attorneys, your electronic 21 information relating to the shaver cleaning center 22 project? 23 A. I provided the Braun attorneys with all the 24 personal electronic information which was on my</p>	<p style="text-align: right;">Page 59</p> <p>1 to this question. First there was a prototype, a 2 rapid prototype, a housing part. 3 INTERPRETER: I will give this answer 4 again, interpreter's notes. It was not well 5 understood before. 6 A. I received from Mr. Schaefer two parts, and 7 these parts should have prototypes, and then I found 8 out that there was already a design for these parts 9 in existence. 10 The second source I was talking to you 11 about before was Mr. Littman. Mr. Littman was an 12 industrial designer. Together with him, I developed 13 the first industrial design for my own cleaning 14 center, in quotation marks. He was the person who 15 told me that Mr. Schneider did an industrial design 16 in the past. 17 Q. To your recollection, did Mr. Littman work 18 with Mr. Schneider? Were they part of the same 19 group in the '93, '94, '95 time frame? 20 A. Mr. Schneider is Mr. Littman's boss, but I 21 don't know when he became Mr. Littman's boss. It 22 might have been '93, '94. I don't know. 23 Q. Did the design that Mr. Schneider made, was 24 that committed to paper form? Was there a schematic</p>
<p style="text-align: right;">Page 58</p> <p>1 personal computer, except mail files. 2 Q. So you didn't provide the attorneys with 3 your electronic mail files? 4 A. Yeah. 5 Q. And do you know whether the attorneys 6 received the electronic mail files that you had 7 archived? 8 A. I don't know. 9 Q. Did the attorneys ask you for your 10 electronic mail files? 11 A. No. 12 Q. With respect to Mr. Schneider, did you 13 contact Mr. Schneider regarding the gathering of 14 documents related to the shaver cleaning center 15 project? 16 A. No. Mr. Schneider is the head of the 17 industrial design department of our company, and I 18 learned much later that he created an industrial 19 design. 20 Q. What did you learn much later or how did 21 you learn much later that he had created an 22 industrial design of, I assume, the shaver cleaning 23 system? 24 A. There are two types of information related</p>	<p style="text-align: right;">Page 60</p> <p>1 for that design? 2 A. I don't know. 3 Q. Well, let me just ask this question, then. 4 What steps has Braun taken to collect documents from 5 Mr. Schneider relating to the shaver cleaning center 6 project? 7 A. I don't know. 8 Q. Next with respect to Mr. Littman, what 9 steps has Braun taken to collect documents from Mr. 10 Littman related to the shaver cleaning center 11 project? 12 A. I don't know. 13 Q. I take it, then, you did not personally ask 14 Mr. Littman for -- 15 A. I did not personally ask. 16 Q. Okay. I understand. I understand Mr. 17 Greubel is retired from Braun or he no longer works 18 at Braun? 19 A. He is retired. 20 Q. Do you know whether Braun has made any 21 efforts to locate documents which would have been 22 left by Mr. Greubel related to the shaver cleaning 23 center project? 24 A. Mr. Greubel is an industrial designer, and</p>

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<p style="text-align: right;">Page 61</p> <p>1 as an industrial designer, he works in a way which 2 can be compared to an artist working with a form, 3 and he left this form for me. 4 Q. So he left a prototype for you? 5 A. Yes. Mr. Greubel, and I myself, we met and 6 had a discussion. I explained to him what the 7 apparatus should look like in broad outlines, and 8 then Mr. Greubel produced a 3D industrial design 9 using hard film and material. 10 Q. Do you know if Mr. Greubel, aside from the 11 prototype and the physical materials he was working 12 with, if he ever generated any documents, written 13 documents? 14 A. Not as far as I know. 15 Q. Let me ask this question one more time. Do 16 you know what efforts, if any, Braun has made to 17 collect written documents, if any exist, from Mr. 18 Greubel? 19 A. No. 20 Q. Do you know what steps were taken by Braun 21 to collect documents from Roland Ullmann relating to 22 the shaving cleaning center project? 23 A. Mr. Ullmann is another industrial designer, 24 and I did his documentation myself. I am the author</p>	<p style="text-align: right;">Page 63</p> <p>1 A. I don't know. 2 Q. Aside from yourself, do you know if anyone 3 at Braun has asked him if he has any other 4 information, aside from his 3D designs? 5 A. I don't know. 6 Q. What steps were taken by Braun to collect 7 documents from the files of Gilbert Greaves relating 8 to the shaver cleaning center project? 9 A. I don't know. 10 Q. What steps were taken by Braun to collect 11 documents from the files of Alf Jahn related to the 12 shaving cleaning center project? 13 A. Alf Jahn was my co-worker about 1997. In 14 all the documents he earned are now in my propriety. 15 I own them now. 16 Q. So Mr. Jahn gave you all of his files? 17 A. Yes. 18 Q. Has Mr. Jahn left the employment of Braun? 19 A. Yes. 20 Q. As part of what you provided to the 21 lawyers, you provided the files of Mr. Jahn, 22 correct? 23 A. Yes. 24 Q. Tell me what steps were taken by Braun to</p>
<p style="text-align: right;">Page 62</p> <p>1 of his documents. In those days, we worked in the 2 following way. Mr. Ullmann steered or guided myself 3 so that I could produce with the virtual system on 4 the CAD system a 3D industrial design. 5 Q. How did you communicate with Mr. Ullmann; 6 was it always verbally or did you communicate in 7 writing or both? 8 A. In those days, Mr. Ullmann came every day 9 to my workplace, and we spoke about all the details, 10 sitting together in front of the computer monitor. 11 So Mr. Ullmann saw what I was doing, and when he 12 wanted to have a modification done, it could be done 13 directly there. So it was done in the realtime. 14 Q. Okay. I understand. With that in mind, do 15 you know if anyone at Braun, including yourself, has 16 asked Mr. Ullmann if he personally has documents 17 related to his work on the shaver cleaning system? 18 A. I personally asked him for this 19 information, but I didn't ask him for written 20 material. I asked him for his 3D industrial design 21 models, because this is what he does for his work. 22 That's the way he expresses himself. 23 Q. Okay. Do you know if he would have had any 24 other documents, aside from the 3D design?</p>	<p style="text-align: right;">Page 64</p> <p>1 collect documents from the files of Norbert Kreutz 2 related to the shaving cleaning center project? 3 A. That I don't know. Mr. Kreutz was a 4 technical drawer who was only helping us out in that 5 capacity with the drawing. 6 Q. Is Mr. Kreutz still employed by Braun? 7 A. Yes. 8 Q. What steps were taken by Braun to collect 9 documents from the files of Thomas Schamberg 10 relating to the saving cleaning center project. 11 A. I don't know. Mr. Schamberg, his function 12 was the same as Mr. Kreutz. 13 Q. And finally, what steps -- finally from the 14 list and hopefully we can finish up quickly and take 15 lunch, if that sounds good. What steps were taken 16 by Braun to collect documents from the files of Mr. 17 Smetana relating to the saving cleaning center 18 project? 19 A. Mr. Sievers talked to him, and that's all I 20 know. 21 Q. Do you know when Mr. Sievers talked to him? 22 A. No. 23 Q. Who did you contact regarding the gathering 24 of documents related to the saving cleaning center</p>

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<p style="text-align: right;">Page 65</p> <p>1 project?</p> <p>2 A. At what point in time?</p> <p>3 Q. Well, you said you had a project or you</p> <p>4 treated gathering documents as a project.</p> <p>5 A. Well, this was a new project for me from</p> <p>6 the beginning on where I started working on this</p> <p>7 project. At that point in time, because I was new</p> <p>8 in the company, I gathered all the information I</p> <p>9 could possibly find. I spoke to the patent</p> <p>10 department. My spokesperson was Mr. Klauer. I also</p> <p>11 talked to the quality department.</p> <p>12 Q. Okay. I think there's some confusion. You</p> <p>13 understand there's a litigation between or Braun is</p> <p>14 suing Rayovac or Remington, correct?</p> <p>15 A. Yes.</p> <p>16 Q. In connection with that litigation, were</p> <p>17 you personally tasked with gathering documents</p> <p>18 related to the safer cleaning center project?</p> <p>19 A. Yes.</p> <p>20 Q. And my question, then, is from the start of</p> <p>21 that project or from the start of the litigation,</p> <p>22 when you began working on that, until today, who are</p> <p>23 all of the individuals that you contacted regarding</p> <p>24 the gathering of documents?</p>	<p style="text-align: right;">Page 67</p> <p>1 department, and for that reason those binders were</p> <p>2 retained in that department, and those binders</p> <p>3 contain written information.</p> <p>4 Q. Aside from contacting the research</p> <p>5 department regarding the Messinger files, did you</p> <p>6 contact any other individuals?</p> <p>7 A. I contacted my boss, because there was a</p> <p>8 video which was created in '97/'98, and which showed</p> <p>9 the function of one of those function designs,</p> <p>10 prototypes, but we did not find that video.</p> <p>11 Q. Okay. Did you contact anyone else?</p> <p>12 A. No.</p> <p>13 Q. Were you tasked with gathering documents</p> <p>14 related to the market research for the shaving</p> <p>15 cleaning center project?</p> <p>16 A. No.</p> <p>17 Q. Were you tasked with finding financial</p> <p>18 information related to the shaving cleaning center</p> <p>19 project?</p> <p>20 A. No.</p> <p>21 Q. Now asking you not on behalf of yourself</p> <p>22 personally, but I'm asking you as Braun's</p> <p>23 representative, what individuals or who are the</p> <p>24 individuals that Braun contacted, aside from --</p>
<p style="text-align: right;">Page 66</p> <p>1 A. Almost nobody, because -- almost all of the</p> <p>2 documents which had to do with this project were in</p> <p>3 my own folders, with the exception of the quality</p> <p>4 control reports, the CAD data, et cetera.</p> <p>5 Q. Who did you contact regarding the quality</p> <p>6 control reports?</p> <p>7 A. I did not contact anybody, because it</p> <p>8 didn't make any sense to me to pull test information</p> <p>9 with regards to testing performed in '99 and 2000 in</p> <p>10 the context of this litigation.</p> <p>11 Q. So am I correct that you did not provide</p> <p>12 the quality control reports to the attorneys?</p> <p>13 A. Yes.</p> <p>14 Q. Did you provide the CAD drawings to the</p> <p>15 attorneys?</p> <p>16 A. No. Nobody asked me to do that.</p> <p>17 Q. In terms of contacting people, you said you</p> <p>18 contacted virtually no one, I believe. Who were the</p> <p>19 people that you did contact?</p> <p>20 A. I contacted the person who was in charge of</p> <p>21 the so-called Messinger files.</p> <p>22 Q. Who was in charge of the Messinger files?</p> <p>23 A. We have a department which is called</p> <p>24 research. Mr. Messinger used to be the head of that</p>	<p style="text-align: right;">Page 68</p> <p>1 well, who are the individuals that Braun has</p> <p>2 contacted regarding the gathering of documents</p> <p>3 related to the shaving cleaning center project?</p> <p>4 A. I don't know.</p> <p>5 Q. One last question and then we can break for</p> <p>6 lunch. Following the filing of this lawsuit, and I</p> <p>7 don't know if you know exactly when that was, has</p> <p>8 Braun provided any instruction to its employees</p> <p>9 regarding the duty to preserve evidence related to</p> <p>10 the shaving cleaning center project?</p> <p>11 A. I don't know that.</p> <p>12 Q. Let me just make sure from the legal mumbo</p> <p>13 jumbo. Did anyone tell Braun employees that they</p> <p>14 should keep their documents related to the shaving</p> <p>15 cleaning center project?</p> <p>16 A. I was told to do so, and I then transmitted</p> <p>17 that message to the people that work in my</p> <p>18 department, and I also told the same thing to the</p> <p>19 people who work in the research department, because</p> <p>20 of the Messinger files.</p> <p>21 Q. Did you communicate this via e-mail or</p> <p>22 verbally?</p> <p>23 A. I went there in person and told them.</p> <p>24 Q. When you told them to keep their documents,</p>

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<p style="text-align: right;">Page 69</p> <p>1 did you also ask them to give their documents to 2 Braun's lawyers? 3 A. No. I am pretty sure that I am almost the 4 only one who has the entire document files in my 5 possession. So I told my co-workers that if they 6 find anything, they should forward that to me, they 7 should give it to me. 8 Q. Has anyone forwarded anything to you? 9 A. No. 10 Q. And who were the co-workers that you asked 11 to forward information to you? 12 A. Only Mr. Kreutz is still working there, but 13 I have 11 other co-workers who work with me, and the 14 reason why I told all of those co-workers to do this 15 was that we moved our department, and I wanted to 16 make sure that no information was lost. 17 Q. Why don't we do this after lunch. The next 18 question I want to ask you are who are those 11 19 individuals. 20 A. I start reflecting now. 21 VIDEOGRAPHER: Off the record, 12:36 p.m. 22 (Luncheon Recess) 23 24</p>	<p style="text-align: right;">Page 71</p> <p>1 A. It's on the list. 2 Q. Do you know if Braun has asked Mr. Larchead 3 to provide documents related to the work on the 4 shaver cleaning system? 5 A. I don't think so. 6 Q. I'm going to hand you several documents 7 which I had premarked, and I will get to them in 8 order. 9 (Document marked as Exhibit 52 10 for identification) 11 Q. I'm handing you what I've marked as 12 Defendant's Exhibit 52, which is Braun's Answers to 13 Defendant's Interrogatories. 14 A. Mr. Braun's? 15 MR. SHIMOTA: No. 16 MR. PATTON: The company. 17 Q. I will hand you what I've marked as 18 Defendant's Deposition Exhibit 53, which bears the 19 Bates label B000861. 20 (Document marked as Exhibit 53 21 for identification) 22 Q. I will hand you what I've marked as 23 Defendant's Deposition Exhibit 54. It is the 24 English translation of B861.</p>
<p style="text-align: right;">Page 70</p> <p>1 AFTERNOON SESSION 2 VIDEOGRAPHER: Back on the record, 1:55 3 p.m. 4 MR. SHIMOTA: Right before we went back on 5 the record, Mr. HOESER wrote a list of the 6 individuals would now work under him. I'd like to 7 mark this -- I've premarked some exhibits at lunch 8 -- and just mark this as Defendant's Exhibit No. 63. 9 (Document marked as Exhibit 63 10 for identification) 11 Q. Does Defendant's Exhibit 63 reflect the 11 12 individuals who currently work under you? 13 A. Yes. 14 Q. Do you know if any of these 11 individuals 15 have provided -- well, let me ask this question. Do 16 all of these 11 individuals perform work related to 17 the shaver cleaning system? 18 A. No. 19 Q. None of them do? Oh, I asked you all of 20 them. Who amongst the 11 performed work related to 21 the shaver cleaning system? 22 A. Mr. Larchead, Mr. Kreutz, and the others 23 just if the company is in need of them. 24 Q. Is the Mr. Kreutz you mentioned --</p>	<p style="text-align: right;">Page 72</p> <p>1 (Document marked as Exhibit 54 2 for identification) 3 Q. I will hand you what I've marked as 4 Defendant's Deposition Exhibit 55, a document 5 bearing the Bates number B001064. 6 (Document marked as Exhibit 55 7 for identification) 8 Q. I hand you a document bearing the Bates 9 number -- I'm going to mark as Defendant's Exhibit 10 No. 56, a document filed as an Exhibit B to the 11 declaration of Dietrich Pahl, which is entitled "R&D 12 Shavers 'Future'." 13 (Document marked as Exhibit 56 14 for identification) 15 Q. I will mark as Defendant's Deposition 16 Exhibit 57, documents bearing the Bates range B3074 17 to 3076. 18 (Document marked as Exhibit 57 19 for identification) 20 Q. Mark the next a document as Defendant's 21 Deposition Exhibit 58, a document bearing the Bates 22 range B4615 to B4617, and the English translation of 23 that document as Defendant's Deposition Exhibit 59. 24</p>

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<p style="text-align: right;">Page 73</p> <p>1 (Documents marked as Exhibits 58 and 59 2 for identification) 3 Q. Finally, I'd like to mark as Defendant's 4 Deposition Exhibit 61, U.S. patent No. 5,711,328. 5 (Document marked as Exhibit 61 6 for identification) 7 Q. As Defendant's Deposition Exhibit 62, U.S. 8 Patent No. 5,649,556. 9 (Document marked as Exhibit 62 10 for identification) 11 Q. All right. If you could return back to the 12 Notice of Deposition which we talked about earlier, 13 which is Defendant's Deposition Exhibit 49. If I 14 could direct your attention to Topic No. 15. 15 Are you prepared to testify on behalf of 16 Braun regarding the conception and reduction to 17 practice date for the alleged inventions of the 18 patents in suit identified in Braun's response to 19 interrogatory No. 2 and the evidentiary basis for 20 such dates? 21 A. Yes. 22 Q. And I take it, then, that you have also 23 reviewed Braun's response to interrogatory No. 2? 24 A. This year?</p>	<p style="text-align: right;">Page 75</p> <p>1 reduced to practice on or before July 22, 1993." 2 A. Yes. 3 Q. My question is, what is the evidentiary 4 basis for the assertion of that particular date? 5 A. I was told the dates, because all of this 6 happened prior to my arrival at Braun. 7 Q. Well, do you know of any -- aside from what 8 the lawyers tell you, are you aware of any facts 9 which would corroborate the date of July 22, 1993? 10 A. I know that there is in discovery an 11 invention with those dates. 12 Q. Are you referring to this document, which 13 is the English translation? 14 A. Yes. 15 Q. Have you reviewed this document before? 16 A. Yes. 17 Q. Can you point me to in, I believe it's 18 Exhibit 50 or 51, where there is any discussion of a 19 cartridge with an integrated filter? 20 A. Here in the last paragraph there is talk in 21 this paragraph about the cleaning recipient. 22 MR. SHIMOTA: What did you say? 23 INTERPRETER: In this last paragraph there 24 is talk about the cleaning recipient.</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. Yes. That's what I'm talking about. If I 2 can help you, I will direct your attention to -- 3 A. This is a document which I've seen for the 4 first time today. 5 Q. Are you familiar with the conception and 6 reduction to practice dates for some of the 7 inventions which are described in these two patents? 8 A. In broad lines. 9 Q. What did you do to prepare yourself to 10 testify regarding the conception and reduction to 11 practice dates? 12 A. I spoke with the two attorneys, and 13 together with the two attorneys I perused the dates 14 which led to the patents. 15 Q. Okay. I don't know if interrogatory No. 2 16 will help you at all. If you can just take the 17 patents, I just want to go through the various 18 claims and the dates we have, and I want to ask you 19 questions about that. If we can start with Claim 1 20 of the '556 patent. 21 A. Which page is it? 22 Q. That would be the last page of it. 23 Interrogatory No. 2 states that "Claim 1 of the '556 24 patent was conceived on or before July 22, '93 and</p>	<p style="text-align: right;">Page 76</p> <p>1 A. And there is talk about the reserve in 2 liquid, such as a filter. 3 Q. So this is the last paragraph at the bottom 4 that bears the Bates number B001070? 5 A. Yes. But I am going now to read further in 6 this document. 7 Q. Sure. 8 A. Then I would like to refer to the drawing. 9 You see the drawing shows a recipient which contains 10 the liquid. Yes. 11 Q. When you started work in July of 1995, did 12 you see a prototype of a cleaning center? 13 A. Not immediately, but within the course of 14 the first few months. 15 Q. Did that prototype have a removable 16 cartridge which contained fluid and also had a 17 filter? 18 A. This is the prototype, and the lower part 19 of this apparatus, that's removable, and the filter 20 is part of that lower part of this apparatus. 21 Q. Okay. Do you know the word "cartridge"? 22 A. Yes. 23 Q. In Braun's current device there is a 24 cartridge which contains cleaning fluid and has a</p>

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<p style="text-align: right;">Page 77</p> <p>1 filter, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know who had the idea for using a</p> <p>4 cartridge which contained fluid and had a filter --</p> <p>5 did you know who had the idea using a cartridge</p> <p>6 which contained a fluid in the cleaning center?</p> <p>7 A. The idea existed when I started working</p> <p>8 there, and I take it that the idea is from Mr.</p> <p>9 Braun.</p> <p>10 Q. Circling back, do you see the idea for a</p> <p>11 cartridge containing fluid -- do you see the idea</p> <p>12 for a removable cartridge containing fluid with a</p> <p>13 filter in it described in Defendant's Exhibit 50?</p> <p>14 A. I would say that that's the case, yes.</p> <p>15 Q. Okay. Is that what you had pointed me to</p> <p>16 previously? I'm sorry, that was a bad word. You</p> <p>17 pointed me to one paragraph on the first page and</p> <p>18 the figures at the end of the document; is that</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Did you see anyplace else in</p> <p>22 Defendant's Exhibit 50 where there would have been</p> <p>23 discussion of a removable cartridge?</p> <p>24 A. If you would like me to, I could read</p>	<p style="text-align: right;">Page 79</p> <p>1 cleaning center, that is not called a cartridge?</p> <p>2 A. I would call this in German a container</p> <p>3 with liquids, a recipient with liquids.</p> <p>4 Q. I want to make sure we're clear here. Have</p> <p>5 you ever used for that device -- have you ever</p> <p>6 called what is inserted into Braun's current device,</p> <p>7 have you personally called that a cartridge or do</p> <p>8 you always call that a recipient carrying liquids?</p> <p>9 A. We use in the meantime the word</p> <p>10 "cartridge," because this is a word which became</p> <p>11 Germanized over time.</p> <p>12 Q. So "cartridge" is not a term that would be</p> <p>13 used in German regularly, but it's something that</p> <p>14 you came to adopt for, I guess, business purposes?</p> <p>15 A. That's correct.</p> <p>16 Q. Does looking again at this document, since</p> <p>17 we have it out, was this one of the documents</p> <p>18 provided to you by Mr. Schaefer?</p> <p>19 A. Yes.</p> <p>20 Q. Did you review this document when you first</p> <p>21 received it in July of 1995, approximately?</p> <p>22 A. Yes.</p> <p>23 MR. PATTON: Jim, just so the record is</p> <p>24 clear, Exhibit 55 we are looking at?</p>
<p style="text-align: right;">Page 78</p> <p>1 through the document one more time.</p> <p>2 Q. Well, do you know of any other documents,</p> <p>3 any other evidence, which would indicate that the</p> <p>4 idea of a removable cartridge containing cleaning</p> <p>5 fluid was conceived on or before July 22, 1993?</p> <p>6 A. I know this drawing.</p> <p>7 Q. So can you see a removable cartridge in</p> <p>8 this drawing?</p> <p>9 A. I wouldn't use the word "cartridge" on this</p> <p>10 drawing.</p> <p>11 Q. Why wouldn't you use the word "cartridge"?</p> <p>12 A. The nomenclature which led to Braun's use</p> <p>13 of the word "cartridge" is not logical. In German</p> <p>14 one would call this item a recipient-containing</p> <p>15 liquid.</p> <p>16 Q. Are you referring to something of this</p> <p>17 drawing, when you say a recipient-containing liquid?</p> <p>18 A. This is just a general comment. In German,</p> <p>19 it is not cartridge, it is a recipient for a liquid</p> <p>20 or a liquid container.</p> <p>21 Q. Okay.</p> <p>22 A. You wouldn't call it cartridge.</p> <p>23 Q. So in Braun's current product, the device</p> <p>24 or the product which you insert and out of the</p>	<p style="text-align: right;">Page 80</p> <p>1 MR. SHIMOTA: Yes. Thank you for that.</p> <p>2 Q. Do you see at the bottom in the lower</p> <p>3 right-hand corner listed "Braun France SA"?</p> <p>4 A. Yes.</p> <p>5 Q. Did you recognize that in approximately</p> <p>6 July of 1995 when you received this document?</p> <p>7 A. Yes.</p> <p>8 Q. Did you ever ask anyone how people in</p> <p>9 France came to be working on the cleaning center?</p> <p>10 A. Yes.</p> <p>11 Q. Who did you ask that?</p> <p>12 A. I asked my boss, Walter Schaefer, and he</p> <p>13 told me that this drawing originated in France,</p> <p>14 because Dr. Pahl, and there was no reference made to</p> <p>15 a year, but Dr. Pahl was the supervisor of a</p> <p>16 development group in France, and it was this group</p> <p>17 or team that offered this drawing upon instruction</p> <p>18 from Mr. Pahl.</p> <p>19 Q. Do you recall, approximately, when Mr.</p> <p>20 Schaefer would have provided you with this</p> <p>21 information?</p> <p>22 A. Maybe during the first two months.</p> <p>23 Q. Did Mr. Schaefer tell you how he learned</p> <p>24 the information that he had conveyed to you?</p>

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<p style="text-align: right;">Page 81</p> <p>1 A. No.</p> <p>2 Q. Do you know who was on the team in France</p> <p>3 that worked with Dr. Pahl on the cleaning center?</p> <p>4 A. I know that there were three people on this</p> <p>5 team, but I don't know the names of those people.</p> <p>6 Q. How do you know there were three people on</p> <p>7 the team?</p> <p>8 A. At that point in time, Mr. Schaefer told me</p> <p>9 that there were three people working on it, and this</p> <p>10 time it was in the conversation, during the</p> <p>11 conversation I had with the lawyers, they also told</p> <p>12 me that.</p> <p>13 Q. So you're referring to point one when you</p> <p>14 talked with Mr. Schaefer at some point in '95, and</p> <p>15 you're referring also to when you spoke with the</p> <p>16 lawyers just recently?</p> <p>17 A. Monday.</p> <p>18 Q. Okay. Do you know if Braun has attempted</p> <p>19 to gather documents which would have been retained</p> <p>20 from the three individuals in France who worked on</p> <p>21 the cleaning center?</p> <p>22 A. I don't know that.</p> <p>23 Q. Can you show me, if you can, anywhere on</p> <p>24 this document -- I believe there's a blower shown, a</p>	<p style="text-align: right;">Page 83</p> <p>1 that Claim 11 was conceived on or before November,</p> <p>2 '92 and reduced to practice on or before November of</p> <p>3 '92.</p> <p>4 So my question is what is the evidentiary</p> <p>5 basis for the date of November, '92?</p> <p>6 A. It is this part of a presentation.</p> <p>7 Q. Can you show me Defendant's Exhibit 56</p> <p>8 where there is shown the drawing device?</p> <p>9 A. You don't see the dryer on this drawing.</p> <p>10 It's not recognizable. But it is explained in the</p> <p>11 comments.</p> <p>12 Q. What is stated in the comments?</p> <p>13 A. The functions of the products I explained,</p> <p>14 and it starts with a shaver in and out, then to pump</p> <p>15 and filter the liquids, and then dry, to dry.</p> <p>16 Q. So can you point me to where it is shown in</p> <p>17 this document the idea of drying with a fan?</p> <p>18 A. That I cannot read from this document, but</p> <p>19 this is a picture of the product where you have the</p> <p>20 drawing over here. This product corresponds to this</p> <p>21 drawing. And this product certainly existed prior</p> <p>22 to the point in time where I started working at</p> <p>23 Braun. This product corresponds 100 percent to this</p> <p>24 drawing, and the missing parts in the drawing you</p>
<p style="text-align: right;">Page 82</p> <p>1 fan shown at the bottom of this document; is that</p> <p>2 correct? Correct me if I'm wrong.</p> <p>3 A. There are several components on this</p> <p>4 drawing, which I can recognize very well. First</p> <p>5 there is a container with the liquid. There is the</p> <p>6 absorption part, the cradle, the pump, the filter,</p> <p>7 the filter outlet, the clutch for the pump, the</p> <p>8 shaver head, power supply.</p> <p>9 Q. Okay. Was in this original work done by</p> <p>10 Dr. Pahl included a drawing device?</p> <p>11 A. Yes.</p> <p>12 Q. Where is the drawing device?</p> <p>13 A. It's not so clear on this drawing. It's a</p> <p>14 fan plus heater.</p> <p>15 Q. So is there shown anywhere the fan plus the</p> <p>16 heater in this drawing?</p> <p>17 A. No.</p> <p>18 Q. Let's set this document aside. Let's go to</p> <p>19 '328 patent, interrogatory No. 2. Interrogatory No.</p> <p>20 2 states that -- do you have the '328 patent in</p> <p>21 front of you? I'm sorry. This would be the third</p> <p>22 to last page. Claim 11 provides a lot of -- well,</p> <p>23 there are several elements, and the last is a</p> <p>24 drawing device. It states in interrogatory No. 2</p>	<p style="text-align: right;">Page 84</p> <p>1 can see them on the picture. Here you see the</p> <p>2 heater.</p> <p>3 Q. Can you point me to the heater?</p> <p>4 A. It's this black part.</p> <p>5 Q. That's not the shaver then that's inserted?</p> <p>6 A. No, no, that's not the share. The cradle</p> <p>7 is here in front.</p> <p>8 Q. I got you.</p> <p>9 A. Here is the cradle. This is the heater,</p> <p>10 and below the heater is the fan. It sucks warm air</p> <p>11 and blows it onto the shaver.</p> <p>12 Q. Can you tell me when the device illustrated</p> <p>13 in Braun 3074 to 3076 was built?</p> <p>14 A. This device?</p> <p>15 Q. Yes.</p> <p>16 A. I don't know. It was before my start at</p> <p>17 Braun.</p> <p>18 Q. Aside from the documents we've discussed,</p> <p>19 is there any other document of which you know which</p> <p>20 would show the first time when a blower and a heater</p> <p>21 were used in the cleaning center?</p> <p>22 A. I don't recall any one which is not on this</p> <p>23 table.</p> <p>24 Q. We talked about the presentation, which is</p>

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1 Defendant's Exhibit 56, the picture of the device,
2 and we also discussed the large schematic, which is
3 Defendant's Exhibit 55. Is there anything else that
4 you can think of sitting here today?

5 A. Yes. We also have Exhibit 58.

6 Q. What is Defendant's Exhibit 58?

7 A. There we talk about the drying process of a
8 shaver with the help of a fan.

9 Q. Is Defendant's Exhibit 58 a document that
10 would have been in the 20 or so -- is Defendant's
11 Exhibit 58 something that was provided to you by Mr.
12 Schaefer in '95?

13 A. I am not 100 percent sure. The second part
14 of this document, there I am 100 percent sure. With
15 the first part of the document, I am not 100 percent
16 sure.

17 Q. Okay. Is the first part of the document,
18 the first memo, something that you reviewed
19 yesterday?

20 A. No. I looked at it today.

21 Q. Do you mean you looked at it -- did you
22 look at it prior to this deposition or during this
23 deposition now?

24 A. Right now.

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1 Q. Okay. Have you ever seen this document
2 before, the first one? I'm sorry, we shouldn't have
3 put these together.

4 A. I am not sure.

5 Q. Do you know whether the first document, the
6 memo from, I believe, Mr. Smetana to Dr. Pahl, Dr.
7 Braun and Dr. Jahn, is evidence of the use of a fan
8 and a heater in the cleaning center?

9 A. At least with regard to the fan.

10 Q. When you say "at least with regard to the
11 fan," does it also discuss the use of a heater with
12 the fan?

13 A. No. As far as I can read here, I don't see
14 that.

15 Q. So this document is also -- well, I guess
16 aside from this picture, then, this is the only
17 place where you can actually see the leaves of the
18 heater in the cleaning center in the documents we've
19 reviewed?

20 A. Yes.

21 Q. You said you were definitely familiar with
22 the following document, which, I believe, is from
23 Mr. Stiegler to Mr. -- well, several people. Why do
24 you recall this document?

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1 A. This document was from Mr. Stiegler to Mr.
2 Schaefer, and Mr. Schaefer was my supervisor, and
3 the content of this document represents one of the
4 main problems we had to solve.

5 Q. What was the main problem or one of the
6 main problems you had to solve with the cleaning
7 center?

8 A. The main problem consisted in the fact that
9 the shaver had to be locked in the cleaning center.
10 The reason for this being the fact that the shaver
11 during the cleaning process becomes very wet, and
12 the shaver being charged with 220/110 respectively
13 volt, it cannot be removed under any circumstances
14 in its wet state.

15 Q. How was that problem solved?

16 A. I'm a good engineer. The problem was
17 solved by not charging the shaver any more with 220
18 volt, but with 12 volts.

19 Q. Once you stepped down the voltage for
20 charging, did you know longer need the mechanical
21 lock?

22 A. From a technical security point of view, it
23 is not a must any more.

24 Q. In the commercial cleaning center

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1 introduced by Braun, was there an interlock
2 included?

3 A. I would call it a soft lock.

4 Q. In this document, do you know who Mr. --
5 there's listed a Mr. Kraus with VDE. Do you know
6 who that is?

7 A. Yes.

8 Q. Do you know Mr. Kraus?

9 A. I never met Mr. Kraus personally, in
10 person.

11 Q. Did you know of Mr. Kraus?

12 A. Yes.

13 Q. How did you know of Mr. Kraus?

14 A. From Mr. Stiegler in our approbation
15 department.

16 Q. Did you gain any other information, aside
17 from this document, from Mr. Stiegler regarding Mr.
18 Kraus?

19 A. No.

20 Q. So this is the only time you knew of Mr.
21 Kraus?

22 A. Yes.

23 Q. What is your understanding of this
24 document? Is this document conveying the

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<p style="text-align: right;">Page 89</p> <p>1 suggestions of VDE to the suggestions Mr. Stiegler 2 received from VDE to various individuals at Braun? 3 A. In fact, those are no suggestions. Those 4 are instructions. 5 Q. So VDE told Braun you need to do this or we 6 will not approve of your device? 7 A. Exactly. 8 Q. Look, again, to the '328 patent, and 9 interrogatory No. 2, it states that Claim 14 of the 10 '328 patent was conceived and reduced to practice on 11 or before November of 1992? 12 A. Could you repeat the question one more 13 time. 14 Q. Sure. What is the evidentiary basis for 15 the statement that Claim 14 of the '328 patent was 16 conceived and reduced to practice on or before 17 November of 1992? 18 A. I have to refer to this document. 19 MR. PATTON: "This document" is exhibit? 20 MR. SHIMOTA: Defendant's Exhibit 56. 21 Q. And Exhibit 55, the schematic? 22 A. Yes. 23 Q. If we could look, then, to Claim 18 of the 24 '328 patent. Interrogatory No. 2 states that Claim</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. There's discussion of various dates in 2 which inventions were conceived and reduced to 3 practice. Did any of the activities related to 4 conception and reduction to practice occur in the 5 United States? 6 A. To the best of my knowledge, no. 7 Q. In interrogatory No. 2, there are listed 8 with individuals with knowledge, and that would be 9 Dietrich Pahl, Mr. Gebhard Braun, Wolfgang Vorbeck 10 and Peter Sartorius. My question for you is -- I 11 know who the first three individuals are. Who is 12 Peter Sartorius? 13 A. Sorry. I don't know. 14 MR. SHIMOTA: Why don't we take a break to 15 change the tape. 16 VIDEOGRAPHER: Here ends videotape No. 2. 17 Off the record at 2:57 p.m. 18 (Recess) 19 VIDEOGRAPHER: Here begins videotape No. 3 20 in today's deposition of Juergen Hoeser. Back on 21 the record at 3:05 p.m. 22 BY MR. SHIMOTA: 23 Q. If you would look at this document, I will 24 read off the translation, and I've marked that as</p>
<p style="text-align: right;">Page 90</p> <p>1 18 of the '328 patent was conceived on or before 2 July 22, 1993 and reduced to practice on or before 3 July 22, 1993. My question is, what is the 4 evidentiary basis for that date? 5 A. That date is mentioned on the invention 6 document. 7 Q. So the idea of a bracket to Braun's 8 knowledge was not conceived prior to -- or the 9 earliest date that Braun can point to for the 10 conception of a bracket is Mr. Braun's invention 11 disclosure record? Turn to the front page, 12 Embodiment 10 is the bracket. 13 A. The bracket is the lock. 14 Q. Is that when they were discussing the lock 15 in the memo to Mr. Stiegler, that's what you were 16 referring to as Item 10, the bracket? 17 A. Yes. Ten plus nine. 18 Q. Well, an earlier date, then, July of '93, 19 would be that memo from Mr. Stiegler, correct? That 20 would be in June of '93? 21 A. Yes. 22 Q. Do you know of any date earlier than that 23 June of '93 memo? 24 A. No.</p>	<p style="text-align: right;">Page 92</p> <p>1 Defendant's Exhibit 53. Have you ever seen this 2 document before? 3 A. No. 4 Q. You have not seen it before? 5 A. I've seen it on Monday. 6 Q. If you look under point five, it states, 7 "Are you aware of prior art going beyond the details 8 in the invention application of state sources"? In 9 the 30(b)(6) it states you were designated by Braun 10 to testify as to the identity and contents of the 11 enclosures identified in Defendant's Exhibit 53; is 12 that correct? 13 A. Yes, that's correct. 14 Q. Speaking on behalf of Braun, what are or 15 what were the enclosures referenced in point five? 16 A. It has to do with point four in document 17 51, and that relates to point five in document 53. 18 Q. So under point four, there's generally 19 described one U.S. patent and like a shaking beaker 20 for shaving heads; is that correct? 21 A. There are two things. The beaker is the 22 American. 23 Q. Let me try and ask this question. So under 24 point four there is described, one, a shaking beaker</p>

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<p style="text-align: right;">Page 93</p> <p>1 for shaving heads, and two, U.S. patent No. 2 3,172,416, correct? 3 A. Yes. 4 Q. Is it Braun's position Dr. Pahl attached 5 U.S. patent No. 3,172,416 to Defendant's Exhibit 53? 6 A. I cannot confirm to that. 7 Q. Well, does Braun have a position as to what 8 the enclosures were attached to Defendant's Exhibit 9 53? 10 A. No. 11 Q. Under point 23 in the 30(b)(6), it is 12 listed -- 13 A. This one? 14 Q. Yes, exactly. Point 23 states "Any and all 15 states taken by Braun to collect the enclosures 16 identified in B00861." What steps did Braun take to 17 gather the enclosures which are referenced in 18 Defendant's Exhibit 53? 19 A. Exhibit 53 originates from the patent 20 department, and I don't know what steps they 21 undertook. 22 Q. So do you know whether Braun checked the 23 files of Mr. Klauer to see if the enclosures were in 24 Mr. Klauer's files?</p>	<p style="text-align: right;">Page 95</p> <p>1 A. Either the translation is wrong or the 2 comment is wrong. 3 Q. Let's see, it states in the second sentence 4 in the English translation, "After about ten 5 seconds, the pump starts to pump the cleaning fluid 6 from the exchangeable cartridge into the cleaning 7 tray." And it also states, "This pumping continues 8 throughout the cleaning operation," and then it 9 states, "The moving cutters create a strong movement 10 of the fluid throughout the cleaning operation which 11 in conjunction with the chemical and physical 12 properties of the cleaning fluid results in very 13 thorough cleaning." 14 A. That's correct. 15 Q. Am I correct during the cleaning operation, 16 the cleaning tray is continuously filled with fluid, 17 correct? 18 A. Yes. 19 Q. And the cutters are oscillating in the 20 fluid, correct? 21 A. Correct. 22 Q. Now, am I correct that the oscillation of 23 the cutters in the cleaning fluid places a heavier 24 load on the motor?</p>
<p style="text-align: right;">Page 94</p> <p>1 A. I cannot say that. But if you attach the 2 invention documents together with this document, 3 then you have the enclosures. That's what I assume. 4 Q. Okay. So when you say you assume, you're 5 guessing, essentially, that's what is referred to by 6 the enclosures? 7 A. Yes. 8 Q. I'd like to hand you what's been marked as 9 Defendant's Deposition Exhibit 60, a document 10 bearing the Bates range B002089 to B002095, and it 11 also includes English translations. Let me direct 12 your attention to B002090. 13 (Document marked as Exhibit 60 14 for identification) 15 Q. At the bottom there is described the 16 cleaning operation? 17 A. Yes. 18 Q. In the first two sentences there's 19 generally described the fact that while the shaver 20 is in the basin, its cutters rotate in fluid and 21 that enhances the cleaning operation; is that 22 correct? 23 INTERPRETER: He asked me to repeat the 24 translation.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. This is a question which cannot be answered 2 with yes or no. 3 Q. You're right. That was a bad question. 4 The cutter head oscillates once the fluid has 5 drained in order to shake off excess fluid; is that 6 right? 7 A. I think your translation was wrong. 8 Q. Well, relative to the operation of the 9 cutter heads, just when they are in the air, it 10 takes more power to oscillate the cutting heads when 11 they are in fluid; is that correct? 12 MR. PATTON: I object to the question as 13 being outside the notice, but the witness, of 14 course, may answer if he understands it. 15 A. I understood the question. The answer is, 16 once again, not an easy answer. The fact is that 17 even though we have to oscillate a heavier load, we 18 have less friction. 19 Q. In designing the cleaning center, did you 20 ever consider using a trough that was not 21 continuously filled with fluid during the cleaning 22 operation? 23 A. Yes, and that is done in such a way. 24 Q. When is that done?</p>

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<p style="text-align: right;">Page 97</p> <p>1 A. We fill the basin, and then we drain the 2 basin many times. 3 Q. So it fills up and then goes up, fills up 4 and then goes down? 5 A. Yes. 6 Q. How many times is the basin filled? 7 A. Three times entirely, and one time only a 8 little bit. 9 Q. Did you ever consider designing the 10 cleaning center such that fluid would be injected 11 into the interior of the shaving head? 12 A. Yes. 13 Q. When did you consider that? 14 A. I don't recall. It was one of those 15 concepts which were in the air. 16 Q. Was that your idea? 17 A. I think so. 18 Q. Would you have recorded that idea in one of 19 your laboratory notebooks? 20 A. I can't recall. 21 Q. Do you know why that particular idea was 22 not pursued or why that particular idea of yours was 23 not pursued? 24 A. I can only give you several reasons.</p>	<p style="text-align: right;">Page 99</p> <p>1 A. I don't want to respond to that question, 2 because that has to do with the current development. 3 Q. Is this something that you're working on, a 4 product that you're working on currently that you're 5 thinking of? 6 MR. PATTON: You can answer. 7 A. Yes. 8 MR. PATTON: There's a protective order in 9 place. 10 A. So there is an application related to the 11 invention information where I am the author of, and 12 in a project, we are examining this. So it was in 13 that project team that we discuss about this. 14 Q. Okay. Would there be any documents related 15 to this project that you're working on? 16 A. Of course. 17 Q. Do you know if those documents have been 18 provided to the attorneys? 19 A. I don't think so. 20 Q. Let me ask you this. You're aware that 21 Remington is being sued for a cleaning system? 22 A. Yes. 23 Q. Have you or has anyone in your group ever 24 analyzed the Remington device?</p>
<p style="text-align: right;">Page 98</p> <p>1 Q. If you would, please. 2 A. One of the reasons being that we did not 3 want to give up the standard of the cutting 4 elements. Another reason is the improved cleaning 5 performance. 6 Q. For the first reason you gave, am I correct 7 that you wanted to make a device that you could use 8 for all different types of shavers in future 9 generations? 10 A. No. 11 Q. Well, could you explain further what you 12 mean by standardization of the cutting elements? 13 A. Yes. We did not want to worsen the quality 14 of the shaver because of the cleaning center. 15 Q. With your idea regarding injection, how 16 would you have worsened the quality of the shaver or 17 why was that the perception? 18 A. At that point this time, that was only an 19 assumption. But if, for example, you perforate the 20 head of the shaver, then on those perforation 21 points, dirt is also coming out of those holes. 22 Q. I understand. Did you communicate your 23 idea regarding the injection of fluid into the 24 shaving head to any other individuals at Braun?</p>	<p style="text-align: right;">Page 100</p> <p>1 MR. PATTON: I object to the question as 2 outside the notice. If you understand the question, 3 you can answer. 4 A. Yes. 5 Q. And what have you done to analyze the 6 Rayovac device? 7 MR. PATTON: Same objection. 8 A. I would describe it in the following way. 9 We used the general way of doing this type of work. 10 The analysis was performed mainly by our laboratory. 11 Q. Who in your laboratory performed the 12 analysis of the Rayovac device? 13 A. Mr. Steghaus. 14 Q. Would you spell that, please? 15 A. S-t-e-g, and house. 16 Q. h-a-u-s. 17 A. Right. 18 Q. Do you know if Mr. Steghaus provided his 19 analysis of the Remington device to Braun's lawyers? 20 A. I don't know. 21 Q. Have you seen his analysis? 22 A. Yes. 23 Q. Does this analysis taken a written form? 24 A. Yes.</p>

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<p style="text-align: right;">Page 101</p> <p>1 Q. How long was this document, approximately?</p> <p>2 A. Four to five pages.</p> <p>3 Q. Do you know when this document was</p> <p>4 authored, approximately?</p> <p>5 A. Immediately after launching the product.</p> <p>6 Q. After Remington launched their product?</p> <p>7 A. Yes.</p> <p>8 Q. Why was Remington's product analyzed?</p> <p>9 A. It's a standard procedure within Braun to</p> <p>10 analyze or review all apparatus which is coming from</p> <p>11 other companies.</p> <p>12 Q. So it's standard procedure for Braun to</p> <p>13 look at what the competition is doing?</p> <p>14 A. Yes.</p> <p>15 Q. What I'm going to do next is go through</p> <p>16 your laboratory notebook.</p> <p>17 MR. SHIMOTA: I'd like to mark as</p> <p>18 Defendant's Deposition Exhibit 64 a document bearing</p> <p>19 the Bates range B6737 to B7102.</p> <p>20 (Document marked as Exhibit 64</p> <p>21 for identification)</p> <p>22 MR. SHIMOTA: And I will mark as</p> <p>23 Defendant's Deposition Exhibit 65 Rayovac's</p> <p>24 translation, English translation of the same</p>	<p style="text-align: right;">Page 103</p> <p>1 starting with the invention document information</p> <p>2 "Pahl," and then it continues with other invention</p> <p>3 application or patent applications by myself.</p> <p>4 Q. If you could look to the top where it says</p> <p>5 start with 05818, 38, 39 and 40 you have written</p> <p>6 next to it, "Braun/Pahl"; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Why did you write "Braun/Pahl" next to</p> <p>9 those numbers?</p> <p>10 A. Because Braun was the designer and Pahl the</p> <p>11 manager, and my contact at that point in time was</p> <p>12 still Mr. Pahl, because he was still with Braun,</p> <p>13 worked for Braun, but not in his former function.</p> <p>14 Q. So did you meet with Dr. Pahl fairly often</p> <p>15 regarding the cleaning center project?</p> <p>16 A. In fact, not so often, but he was always</p> <p>17 interested.</p> <p>18 Q. At this meeting in December of 1997, what</p> <p>19 did you discuss with Mr. Klauer and Dr. Hoegler</p> <p>20 regarding the four patent numbers at top?</p> <p>21 A. I can only assume what you were talking</p> <p>22 about, because at that point in time I am sure that</p> <p>23 if we were talking about patents, that we wanted to</p> <p>24 make sure that all the necessary steps were covered</p>
<p style="text-align: right;">Page 102</p> <p>1 document.</p> <p>2 (Document marked as Exhibit 65</p> <p>3 for identification)</p> <p>4 Q. I will ask you first if you generally</p> <p>5 recognize Rayovac Deposition Exhibit 64?</p> <p>6 A. Well, 64 I recognize, because it bears my</p> <p>7 handwriting. If 65 is correct, I can't tell.</p> <p>8 Q. 65, I will represent to you, is that's our</p> <p>9 translation. When I ask you questions, feel free to</p> <p>10 refer to your German original.</p> <p>11 A. Okay. And the figures are corresponding?</p> <p>12 Okay.</p> <p>13 Q. The figures won't show up in the English.</p> <p>14 So in the originals, you have to refer to the</p> <p>15 figures there.</p> <p>16 Turn first to B006971. Can you read to me</p> <p>17 this document?</p> <p>18 A. In German?</p> <p>19 Q. Well, if you can read it in German, and</p> <p>20 then have it translated in English.</p> <p>21 A. These are memos I took for myself with</p> <p>22 regards to a conversation which I had with Mr.</p> <p>23 Klauer and Dr. Hoegler. The object of the</p> <p>24 conversation is the invention information, and</p>	<p style="text-align: right;">Page 104</p> <p>1 in order to secure the state of protection.</p> <p>2 Q. Do you recall what were any of the steps</p> <p>3 that you felt that needed to be taken?</p> <p>4 A. No.</p> <p>5 Q. Had you ever discussed these patents, the</p> <p>6 05818 to 05840, previously with Mr. Klauer?</p> <p>7 A. Certainly.</p> <p>8 Q. On what occasions would you have discussed</p> <p>9 them with Mr. Klauer?</p> <p>10 A. The procedure we had in those days was when</p> <p>11 a new patent application was made, Mr. Klauer was</p> <p>12 compiling all the relevant patents which were</p> <p>13 already in existence.</p> <p>14 Q. Would Mr. Klauer come to you to find</p> <p>15 patents that were already in existence?</p> <p>16 A. No. It was the other way around. Because</p> <p>17 if I want to author an invention, then I have to</p> <p>18 refer to the state of the art.</p> <p>19 Q. And Mr. Klauer would provide you with what</p> <p>20 was the state of the art?</p> <p>21 A. For example.</p> <p>22 Q. I understand. So when you were developing</p> <p>23 new things with respect to the cleaning center, Mr.</p> <p>24 Klauer would have conveyed to you the work done in</p>

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<p style="text-align: right;">Page 105</p> <p>1 these patent applications?</p> <p>2 A. Yes.</p> <p>3 Q. Did he ever explain to you what those</p> <p>4 patent applications represented?</p> <p>5 A. In broad lines.</p> <p>6 Q. Did he explain to you that those patent</p> <p>7 applications represented the work of Dr. Pahl and</p> <p>8 Mr. Braun?</p> <p>9 A. Yes.</p> <p>10 Q. Did Mr. Klauer provide you with the patent</p> <p>11 applications, the 5818 to 5840?</p> <p>12 A. Certainly. But I don't read such things.</p> <p>13 I don't understand them.</p> <p>14 Q. That's the way everyone feels. Why was Dr.</p> <p>15 Hoegler involved in the meeting in December of 1997?</p> <p>16 A. Dr. Hoegler is the successor of Dr. Pahl,</p> <p>17 and my supervisor, boss' boss.</p> <p>18 Q. Your boss' boss, two levels above you?</p> <p>19 A. Yes.</p> <p>20 Q. At the time Mr. Schaefer was your boss, and</p> <p>21 then Dr. Hoegler was above Mr. Schaefer?</p> <p>22 A. Yes.</p> <p>23 Q. Is that still the case? Is it Mr. Schaefer</p> <p>24 and Dr. Hoegler or is it different now?</p>	<p style="text-align: right;">Page 107</p> <p>1 outside of Braun?</p> <p>2 A. No. He is a colleague responsible for the</p> <p>3 video room.</p> <p>4 Q. Do you know who Mr. Metzler's successor</p> <p>5 was?</p> <p>6 A. There is no successor.</p> <p>7 Q. So is there no longer a video room at</p> <p>8 Braun?</p> <p>9 A. Video is so simpler right now, that</p> <p>10 everybody can make videos. So we stopped having</p> <p>11 this position.</p> <p>12 Q. Okay. I understand. When you had meetings</p> <p>13 related to patents with Mr. Klauer, would you</p> <p>14 exchange written information? Let me be more</p> <p>15 specific. That's a bad question.</p> <p>16 When you had meetings with Mr. Klauer,</p> <p>17 aside from actual patent applications and possibly</p> <p>18 prior art, did he provide you with any other written</p> <p>19 documents?</p> <p>20 A. Mr. Klauer was a very informal man, and it</p> <p>21 was very rarely the case that he would circulate</p> <p>22 documents. When I started my work in 1995, I</p> <p>23 received some binders from him that had to do, in</p> <p>24 general, with shavers and the cleaning process of</p>
<p style="text-align: right;">Page 106</p> <p>1 A. No. It's different.</p> <p>2 Q. Okay. Is Dr. Hoegler still at Braun?</p> <p>3 A. Yes.</p> <p>4 Q. In what capacity does he work now?</p> <p>5 A. The same.</p> <p>6 Q. So he's still your boss' boss?</p> <p>7 A. No. He's my boss. I'm promoted.</p> <p>8 Q. So you step in Mr. Schaefer's shoes?</p> <p>9 A. Exactly.</p> <p>10 Q. I understand. Do you know if anyone asked</p> <p>11 Dr. Hoegler to gather any documents he had related</p> <p>12 to the shaver cleaning project?</p> <p>13 A. I don't know if the lawyers told him to do</p> <p>14 so, but I asked him, and I said that to you before.</p> <p>15 I asked him because of that video.</p> <p>16 Q. That's the boss you talked with?</p> <p>17 A. Yes.</p> <p>18 Q. Would there have been someone named Metzler</p> <p>19 who would have made this video? Does that name ring</p> <p>20 a bell to you?</p> <p>21 A. Yes.</p> <p>22 Q. Is Mr. Metzler still at the company?</p> <p>23 A. No.</p> <p>24 Q. Was he someone that was brought in from</p>	<p style="text-align: right;">Page 108</p> <p>1 shavers, and this led me to the Messinger files.</p> <p>2 Q. When you received the binders related to</p> <p>3 general information for cleaning shavers, do you</p> <p>4 still have that binder?</p> <p>5 A. That binder is in the possession of Mr.</p> <p>6 Klauer, and the content was not relevant for</p> <p>7 cleaning centers.</p> <p>8 Q. Why do you say it wasn't relevant for the</p> <p>9 cleaning center?</p> <p>10 A. Because the major part consisted in</p> <p>11 complaint letters from customers that said the</p> <p>12 shaver is not user friendly, is not easy to clean</p> <p>13 such things. In fact, you could call it suggestions</p> <p>14 from clients.</p> <p>15 Q. Okay. Was it suggestions in general saying</p> <p>16 that cleaning was difficult or was it suggestions of</p> <p>17 how to improve the process?</p> <p>18 A. Both elements apply. For example, there</p> <p>19 are people who sent in a drawing where they invented</p> <p>20 or they came up with a double brush, things like</p> <p>21 that, or a toothbrush.</p> <p>22 Q. These would have been people from within</p> <p>23 Braun or third parties or both?</p> <p>24 A. Mostly third parties.</p>

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<p style="text-align: right;">Page 109</p> <p>1 Q. When was the last time you saw this binder 2 of Mr. Klauer's?</p> <p>3 A. Well, this binder was really not that 4 interesting. There was some amusing facts in this 5 binder, but I looked through this binder, and this 6 must have been in the end of '95, the beginning of 7 '96, and then I put the binder on the shelf.</p> <p>8 Q. So you kept the binder for yourself, did 9 you not give it back?</p> <p>10 A. No. I gave it back.</p> <p>11 Q. Did you ever have a meeting with both 12 yourself, Mr. Klauer and Dr. Pahl?</p> <p>13 A. No.</p> <p>14 Q. In the materials that were provided to you 15 by Mr. Klauer -- well, in any of the materials 16 provided to you by Mr. Klauer, were there included 17 documents relating to work on the cleaning center 18 prior to your arrival at Braun?</p> <p>19 A. Only the invention of Braun/Pahl.</p> <p>20 Q. You mentioned that you at some point in 21 time went looking for the files of Mr. Messinger?</p> <p>22 A. Yes.</p> <p>23 Q. If I could direct your attention to -- you 24 can look in your German original. If you could look</p>	<p style="text-align: right;">Page 111</p> <p>1 cleaning processes with liquid?</p> <p>2 A. Essentially the cleaning of the shavers 3 with water. He concentrated on that. That was his 4 focus. And he collected very good details about 5 shaver cleaning procedures in general.</p> <p>6 Q. What details did he collect about shaver 7 cleaning procedures in general?</p> <p>8 A. For example, the composition of dirt. How 9 customers perceive cleaning, and such things.</p> <p>10 Q. Did you use any of the information in Mr. 11 Messinger's files when you were performing your work 12 on developing the cleaning center?</p> <p>13 A. Only as to support my argumentation.</p> <p>14 MR. SHIMOTA: How are we doing on time for 15 you?</p> <p>16 MR. PATTON: If we could wind up in the 17 next ten minutes, it will be helpful.</p> <p>18 Q. We will go back to your notebooks tomorrow. 19 I promise you we will get done with those. Let me 20 ask you a few questions outside of that.</p> <p>21 In the current iteration -- in the most 22 recent version of Braun's cleaner shaving system, is 23 there included a fan or an impeller?</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 110</p> <p>1 to B6740, the second line.</p> <p>2 A. Okay.</p> <p>3 Q. Would that have been approximately when you 4 would have been looking for the file of Mr. 5 Messinger?</p> <p>6 A. Yes.</p> <p>7 Q. And why were you looking for Mr. 8 Messinger's file?</p> <p>9 A. I would say that at that point in time I 10 was still very interested in learning more about 11 Braun, the company Braun in itself, and Mr. 12 Messinger was kind of legend, a hero. So I did not 13 only look at his cleaning procedures, but I also 14 looked at other things.</p> <p>15 Q. What, from Mr. Messinger's files, what 16 cleaning procedures did you learn of?</p> <p>17 A. The Messinger files were clear when it came 18 to the invention for Mr. Messinger himself, and his 19 invention consisted of a type of scraper where he 20 scrapes the dirt off the cutter block.</p> <p>21 Q. Did Mr. Messinger also catalog any work 22 related to cleaning shavers with liquid fluid?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall what was described, what</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. How is the shaver dried in the most recent 2 version of the shaver cleaning system?</p> <p>3 A. There are two methods. The first one is 4 inductive, and the second one is passive.</p> <p>5 Q. Can you explain to me what you mean by 6 "passive"?</p> <p>7 A. "Passive" means in this context that we 8 have a very open system where alcohol can evaporate 9 very quickly.</p> <p>10 Q. So am I correct that "passive" means 11 essentially air drying or drip drying?</p> <p>12 A. Yes.</p> <p>13 Q. Induction heating, is that done through, I 14 guess, a coil which is heated up by application of 15 electric current?</p> <p>16 A. The cutting parts are heated using 17 inductive energy.</p> <p>18 Q. I guess there's the two methods of drying 19 now. Are the two methods employed in the same 20 device or does certain devices employ one method and 21 other devices employ the latter?</p> <p>22 A. There are, in fact, three methods on the 23 market; the one with the fan, the inductive method, 24 and the passive method. The three methods are used</p>

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<p style="text-align: right;">Page 113</p> <p>1 for very different types of devices.</p> <p>2 Q. What different types of devices are they</p> <p>3 used for?</p> <p>4 A. Seen from which perspective?</p> <p>5 Q. When you say "different types of devices,"</p> <p>6 are you talking about from the consumers'</p> <p>7 perspective or from Braun's perspective?</p> <p>8 A. Both. We have an old apparatus. This old</p> <p>9 apparatus is still on the market. We do have a new</p> <p>10 top line device, which uses inductive drying, and we</p> <p>11 do have a mid-price device, that uses passive heat.</p> <p>12 Q. The device with the fan, that is the lowest</p> <p>13 price device, and the device with passive drying is</p> <p>14 the mid-priced device, and the induction heating is</p> <p>15 the high-end device; is that correct?</p> <p>16 A. No. The device with the fan is the former</p> <p>17 top line. The price is not lower for the device</p> <p>18 with passive drying. So it's a parallel.</p> <p>19 Q. Why was the decision made to, I guess,</p> <p>20 pursue alternatives to using the fan for drying the</p> <p>21 shaver head?</p> <p>22 A. There are several reasons for that. The</p> <p>23 first reason is the building space. The second</p> <p>24 reason is the noise. And the third reason is that</p>	<p style="text-align: right;">Page 115</p> <p>1 CERTIFICATE</p> <p>2 I, JUERGEN HOESER, do hereby certify</p> <p>3 that I have read the foregoing transcript of my</p> <p>4 testimony, and further certify that it is a true and</p> <p>5 accurate record of my testimony (with the exception</p> <p>6 of the corrections listed below):</p> <p>7 Page Line Correction</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 Signed under the pains and penalties of perjury</p> <p>20 this day of , 2005.</p> <p>21</p> <p>22 JUERGEN HOESER</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 114</p> <p>1 if I use the inductive heater, then I can</p> <p>2 simultaneously perform different tasks.</p> <p>3 MR. SHIMOTA: I will tell you what, because</p> <p>4 I know you have to go, why don't I finish up there.</p> <p>5 MR. PATTON: Do you want to start again at</p> <p>6 eight o'clock?</p> <p>7 MR. SHIMOTA: Yes.</p> <p>8 VIDEOGRAPHER: Off the record, 4:13 p.m.</p> <p>9 (Whereupon the deposition</p> <p>10 suspended at 4:13 p.m.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 116</p> <p>1 CERTIFICATE</p> <p>2 Commonwealth of Massachusetts</p> <p>3 Suffolk, ss.</p> <p>4</p> <p>5 I, Michael D. O'Connor, Registered Professional</p> <p>6 Reporter and Notary Public in and for the</p> <p>7 Commonwealth of Massachusetts, do hereby certify</p> <p>8 that JUERGEN HOESER, the witness whose deposition is</p> <p>9 hereinbefore set forth, was duly sworn by me and</p> <p>10 that such deposition is a true record of the</p> <p>11 testimony given by the witness.</p> <p>12 I further certify that I am neither related to</p> <p>13 or employed by any of the parties in or counsel to</p> <p>14 this action, nor am I financially interested in the</p> <p>15 outcome of this action.</p> <p>16 In witness whereof, I have hereunto set my hand</p> <p>17 and seal this 11th day of May, 2005.</p> <p>18</p> <p>19</p> <p>20 Notary Public</p> <p>21</p> <p>22</p> <p>23 My commission expires</p> <p>24 November 7, 2008</p>

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